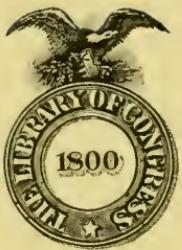


UB 412
.W81



Class 7UR412

Book W81





JAN 18 1907

97
3-23

CONFIRMATION OF LEONARD WOOD.

JANUARY 4, 1904.—Ordered to be printed in confidence for the use of the Senate.

Mr. FORAKER, a member of the Committee on Military Affairs, submitted the following

R E P O R T

OF HIS REASONS FOR FAVORING THE CONFIRMATION OF THE NOMINATION OF BRIG. GEN. LEONARD WOOD TO BE A MAJOR-GENERAL, UNITED STATES ARMY.

The Committee on Military Affairs, having reported favorably the nomination of Brig. Gen. Leonard Wood to be a major-general of the United States Army, the undersigned, a member of that committee, respectfully submits the following in support thereof:

Mr. Estes G. Rathbone made certain objections to the confirmation of General Wood in the form of charges, of which the following is a copy:

I charge General Wood—

1. With issuing orders and instructions to the courts in the postal cases, in violation of article 387 of the Penal Code of Cuba, and in a manner prejudicial to the rights and interests of those under trial.

2. With authorizing the use of ex parte depositions in the postal cases, a proceeding which is contrary to the law and the principles of law, and in this case contrary to instructions given by the Secretary of War.

3. With accepting gifts from an organization commonly known as Jai Alai, to which he had granted a ten years' exclusive concession, the same being a violation of the so-called Foraker law, which prohibited the granting of franchises or concessions during the occupation of the island by the American authorities. The acceptance of these gifts constitutes a violation of article 397 of the Penal Code of Cuba.

4. I also charge him with complicity with another Army officer in

U.S. 41
W81

the preparation and publication of an article reflecting discreditably upon their ranking officer, in violation of an accepted canon of military service, and constituting an offense commonly known as "conduct unbecoming an officer and a gentleman."

5. I charge him with directing and causing the auditor of Cuba, by a military order, to violate the law in the treatment of accounts.

6. I charge him with utilizing the services of an ex-convict with whom he was in intimate personal association in an effort to displace his superior officer, and by such means to secure to himself the vacancy thus created.

Incidental to these are many minor charges.

Evidence and testimony in support of these and other allegations is included among the documents submitted to the committee.

Mr. Rathbone testified at length, and submitted numerous exhibits in support of his charges.

In addition to the testimony of Mr. Rathbone, at his request, the committee subpoenaed and examined a number of witnesses, and also, at his request, called for official information from the War Department and other sources.

In the examination of Mr. Rathbone and the other witnesses produced by him, or subpoenaed at his request, the utmost latitude was given by the committee.

Every witness was allowed to testify as to any fact of which he might have knowledge and desired to speak, without regard to whether, in the estimation of the committee, the same was relevant, competent, or important as testimony with respect to the charges under consideration.

The only restriction of the committee was, that purely hearsay testimony should not be received; and this restriction was not in all cases adhered to; on the contrary, a number of witnesses were allowed to state what had been told them in regard to facts concerning which they disavowed having any personal knowledge.

This statement is made because of the fact that it was widely published in the newspapers during the progress of the investigation that the committee were applying the strict rules of the courts with respect to the admission of testimony and that, on that account, it was made difficult to establish the charges preferred.

It will be observed that the rule adopted by the committee was one allowing as wide latitude as could be, under all the circumstances, reasonably asked or expected.

In General Wood's behalf a statement was submitted, with exhibits, which had been made by him to the Committee on Relations with Cuba, in answer to a statement made before that committee by Mr. Rathbone.

The Secretary of War appeared before the committee and testified upon all the charges and points made that involved in any

way the War Department or to which the War Department had any official relation.

All this testimony is printed in the record in the order in which it was received.

An examination of it will disclose that some of the exhibits and statements are duplicated. This occurred because of the order in which the testimony and exhibits were received and the connection in which the various papers referred to are mentioned by the several witnesses.

It will be further observed that a great deal of the testimony is irrelevant and without any importance whatever so far as the charges preferred by Mr. Rathbone are concerned or on any other account having reference to this investigation.

For this reason, instead of analyzing the testimony of each witness, it is thought that it will simplify the result of the investigation to take up the charges in the order in which they were preferred and indicate what relevant testimony was submitted for and against them, respectively.

Proceeding in this order, the first charge is as follows:

1. I charge General Wood with issuing orders and instructions to the courts in the postal cases in violation of article 387 of the Penal Code of Cuba and in a manner prejudicial to the rights and interests of those under trial.

Article 387 of the penal code of Cuba referred to reads as follows:

ART. 387. The administrative or military official who shall give orders or intimations to a judicial authority relating to causes or questions in controversy whose cognizance or decision is of the exclusive competency of courts of justice shall incur the penalties of suspension in its minimum and maximum degrees, and a fine of from 625 to 6,250 pesetas.

The orders referred to in charge No. 1 as having been issued in violation of this article are found in the record at pages 46-49. They are as follows:

Mr. Alfredo Poey, who alleges to be an attorney for the military governor of Cuba, appears before the court, requesting that the whole court should go to the military governor's office in order to be informed of certain facts which the court should be cognizant of. Thereupon the judge ruled, etc. (The judge complied with the order, and the record so shows.)

2. In the same proceeding appears another record, according to which, on the 17th day of May, 1900, a certain Mr. Albert Wright, alleging to be an attorney, appears before the judge and says:

That by direction of the military government, and according to a letter which he will produce later, he informs the judge that it is the desire of the military governor that Mr. E. P. Thompson, Eduardo

Moya, and Jorge Mascaro should be released from custody, under a bond of \$1,000 for the first-named defendant, and \$2,000 for each of the two others, and that the consul of Denmark, who is present with them, will sign the bond, as he is good security therefor.

3. Volume 1, page 78, appears the following:

HEADQUARTERS, DIVISION OF CUBA,
HABANA, May 17, 1900.

• Sr. RAMON BARANAGA,

Judge of First Instance, District of Cathedral, City.

SIR: In the case of the three employees of the post-office arrested yesterday you are authorized to fix the bail as follows:

In the case of E. P. Thompson	\$1,000
In the case of E. F. Moya	1,500
In the case of Jorge F. Mascaro	1,500

Very respectfully,

LEONARD WOOD,
Military Governor.

4. Volume 1, page 145:

HEADQUARTERS DIVISION OF CUBA,
Habana, May 28, 1900.

Sr. RAMON BARANAGA,

*Judge of First Instance and Instruction,
District of Cathedral, Habana.*

SIR: Confirming the verbal instructions given you a few days since by the military governor in the post-office cases, he requests that you will not proceed against any persons connected with the matter pending the investigation now being had until you receive the instructions from him or from Mr. Conant, who is acting as special attorney for the Government in the matter.

Respectfully yours,

W. V. RICHARDS,
Adjutant-General.

5. Volume 1, page 147:

HEADQUARTERS DIVISION OF CUBA,
Habana, May 29, 1900.

To the CHIEF OF POLICE OF HABANA.

SIR: The military governor directs suspension of the arrest of Mr. Reeves, assistant auditor post-office, until further orders, for reasons of public benefit.

W. V. RICHARDS,
Adjutant-General.

(5 Note.) Official copy respectfully forwarded by direction of the military governor to the judge of the first instance and instruction, Cathedral district, Habana, for his information and guidance.

W. V. RICHARDS,
Adjutant-General.

HABANA, May 31, 1901.

6. In volume 1, page 149, is the following order:

HEADQUARTERS DIVISION OF CUBA,
Habana, May 29, 1900.

*To the Judge of First Instance,
Cathedral District, Habana.*

SIR: The military governor desires me to inform you that Mr. Corydon M. Rich has been accepted as a witness for the State, and it is not the intention of the Government to enter prosecution against him unless he should be shown to have directly profited by the misdoings of Neely.

Very respectfully,

W. V. RICHARDS,
Adjutant-General.

7. Volume 1, page 152:

HEADQUARTERS DIVISION OF CUBA,
Habana, June 1, 1900.

To the Judge of Cathedral, Habana, Cuba.

SIR: The military governor directs me to inform you that he withdraws his request for the suspension of arrest of Dr. Reeves. The mandate of the court can now be carried out and the arrest made.

Very respectfully,

W. V. RICHARDS,
Adjutant-General.

8. Volume 2, page 217.

HABANA, *June 8, 1900.*

Hon. RAMON BARANAGA,
*Judge of the First Instance and Instruction,
District of Cathedral, Habana.*

DEAR SIR: I, as attorney for the military governor of Cuba in the matter of the criminal case against C. W. F. Neely and others charged with malversation of funds of the department of posts, beg to inform you that I have appointed Mr. Alfredo Poey, Mr. Albert Wright, Mr. Charles J. Metz, Mr. J. F. Darling, and Mr. Horace Van De Veldo as my assistants in the matter, and that they are authorized to communicate to you the desire of the military governor in the case.

I also beg to inform you that I, as such attorney, hereby ratify all steps that my assistants have made in the case.

9.

ARDSLEY ON HUDSON, July 27, 1900.

COLONEL SCOTT,
Adjutant-General, Habana:

Direct Rathbone's arrest by proper authorities at once. Bail should be at least \$25,000. Under no circumstances permit his escape before arrest by court. Developments here render this action imperative. Present official copy of this telegram to the court.

Wood.

10.

NEW YORK, July 28.

SCOTT, *Adjutant-General, Habana:*

Telegram sent you yesterday in reference to postal cases was not intended to be mandatory upon the judge as to amount, but a suggestion based upon the gravity of the situation here. Sail this morning.
Wood.

(See p. 341, record.)

11.

HEADQUARTERS, DIVISION OF CUBA,

*Habana, November 12, 1901.*The SECRETARY OF JUSTICE, *Habana.*

SIR: The military governor directs me to inform you that by reason given by Mr. Alfredo Zayas, counsel for Mr. Neely in the post-office cases, he has granted an extension of ten days to the term given by the law to file answers.

The military governor directs that you inform the audiencia of this decision with such instructions as you may consider necessary.

H. L. SCOTT,
Adjutant-General.

NOTE.—The above order was transmitted to the court on November 14, 1901, and the court on the same day ruled as follows: "In view of what is stated in the foregoing communication the term prescribed by law to file answers is extended for ten days more."

ORDERS WITHIN AUTHORITY OF MILITARY GOVERNOR.

With respect to charge No. 1 it is to be observed, in the first place, that General Wood, as military governor of Cuba, had vested in himself not only all executive but also all legislative authority.

By virtue of that fact it was within his power to at any time alter, amend, or repeal article 387.

If, therefore, his action in issuing the orders in question, or any of them, was inconsistent with that provision, such action must be held to be *pro tanto* a modification or amendment of that article; just as a subsequent act of any legislative body would be held to be an amendment or modification or repeal of a prior act of the same body with which it was inconsistent or in conflict.

The charge made ignores and disregards this character and power of the military governor, and for that reason, if there were none other, it could not, in the nature of things, be sustained by such proof as has been offered.

But, in the second place, there arises a question of construction.

It is not every order or intimation "to a judicial authority relating to causes or questions in controversy" that is prohibited by article 387, but only such orders and intimations as relate "to causes or questions in controversy whose cognizance or decision is of the exclusive competency of courts of justice," etc.

What are the orders and intimations of which the courts have "exclusive" competency becomes therefore an important question in considering these orders.

The military governor could, in the exercise of his powers, not only alter, amend, or repeal laws and require conformance therewith, but he could also not only control but even abolish the court entirely if he thought such action would promote the public good.

It does not affect the case that such a government was of arbitrary and autocratic character, for that was what it was intended to be, and what military governments always are.

They are provided only in cases of necessity for such situations as follow war and the consequent disorganization of society, and are intended to last, so far, at least, as our experience is concerned, only until peace, order, and civil government can be substituted.

While such governments are thus arbitrary in character they are not necessarily harsh or unjust. They are amenable to the national government that creates them, and that fact, coupled with public sentiment and enlightened and patriotic purpose, has always been sufficient, in our experience, to restrain abuses and secure happy results.

With this view of the relation of the military governor of Cuba to the courts of that island in mind, no argument is needed to show that the orders cited in support of this charge are clearly within the power of the military governor to make, and, therefore, were not orders or intimations relating to causes or questions within the "exclusive competency" of the courts under article 387, so far as the military governor was concerned, however they might be as to others.

But aside from his general powers as military governor, General Wood acted in the prosecution of the postal fraud cases under special instructions from the Secretary of War that specifically devolved upon him all the powers, duties, and responsibilities of a prosecuting officer, and thus made applicable to him in that prosecution the following provisions of the Spanish criminal code then in force in Cuba, namely:

ART. 306. In accordance with the provisions of the foregoing chapter, judges of examination shall conduct the sumario of public crimes under the direct supervision of the public prosecutor of the court of competent jurisdiction.

The supervision shall be exercised either by the public prosecutor establishing himself in person or through one of his assistants at the side of the examining judge or by means of detailed certified statements, sufficiently explicit, which shall be transmitted to him by the examining judge at periodical intervals and as often as requested, the public prosecutor being permitted in the latter case to submit his remarks in a respectful communication and his petitions by requisiti-

tions equally respectful. He may also delegate his functions to the municipal prosecuting officials.

Art 311. The judge conducting the *sumario* shall take all the steps which may be suggested to him by the prosecuting officials or by the private complainant, if he does not consider them useless or prejudicial.

An appeal may be taken from all decisions refusing to take the steps requested, which appeal shall be allowed for review only before the proper audiencia or court of competent jurisdiction * * * .

That General Wood was especially directed and instructed by the War Department with respect to the prosecution of the postal fraud cases is shown by the testimony of the Secretary of War at page 790 et seq. of the record.

In fact, the Seeretary states repeatedly in the course of his testimony that he was familiar with and in large part directed and entirely approved every step that was taken by General Wood in connection with these cases, and that he still approves and regards as reasonable and proper all that General Wood is shown to have done in that behalf.

In the mere fact, therefore, that General Wood made orders of the general character of those mentioned, there is no evidence of any usurpation of authority or power or of any illegal or wrongful act on his part.

It follows that if he is to be censured at all on account of these orders it must be because of their nature or their object or their wrongful or oppressive effect on some one.

This brings us to an examination of them; and in order that such examination may be intelligent, it is necessary to recall the situation with which General Wood was dealing.

POSTAL FRAUDS.

The occupation of Cuba by the United States commenced January 1, 1899.

Among other things we undertook was the establishment for the island of a complete system of postal service modeled after our own.

Mr. Rathbone was placed in charge of this work by the Postmaster-General of the United States, with the title of director of posts—afterwards changed by himself to direector-general of posts.

As director of posts he was given "general supervision and control of the postal service of the island, cooperating with the military commander, subject to such rules and regulations as may from time to time be promulgated by the Post-Office Department." (Exhibit 9, Order, No. 534, P. M. G., p. 241, record.)

In other words, Mr. Rathbone, by virtue of this official position, became and was the responsible head of the postal system organized and put into operation by the United States in the island of Cuba.

As such, he established the different departments and bureaus thereof and appointed the respective heads and chiefs of the same.

Thus it was that he established the bureau of postal accounts (G. O., No. 12, Exhibit 4, p. 233, record) and appointed W. H. Reeves chief of the same; and the bureau of finance (G. O., No. 4, Exhibit 6, p. 234, record) and placed C. W. F. Neely in charge of the same.

Other bureaus and departments, not necessary for present purposes to be mentioned here, were organized and officered in the same way.

To enable the system to go into operation, the Post-Office Department at Washington surcharged postage stamps of the United States, by printing "Cuba" over their face, to the amount of \$522,000, and delivered them to the chief of the bureau of finance for Cuba for use until stamps specially prepared for Cuba could be printed and furnished.

Local postmasters were appointed for the various cities and localities throughout the island where post-offices were established, with all proper and necessary help of deputies, assistants, clerks, carriers, etc.

Early in 1900, before the system had been completely organized and put into operation throughout the island, Colonel Burton, the inspector-general of the military division of Cuba, reported to the military governor and to the War Department that his inspection of postal accounts showed irregularities of the gravest, most alarming, and far-reaching character. It was soon discovered that Neely, Reeves, and others were guilty of the grossest frauds; and May 5, 1900, Neely, then absent from Cuba, was arrested at Rochester, N. Y. Other arrests quickly followed and everybody on duty in the island was startled and excited, while the whole American people felt mortified and outraged to have such shame and disgrace brought upon them while administering such a trust. There was universal and just demand for the punishment of the offenders.

On May 12, 1900, the investigations and developments having involved Mr. Rathbone, the Postmaster-General wrote him as follows (p. 243, record):

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., May 12, 1900.

Sir: I have to-day, for the first time, seen certain of your bills as director-general of posts, which were brought here by Colonel Burton. Some of these bills are not only without authority or justification, but are scandalous and never should have been passed or paid. The auditor, who was responsible to a different department, was inexcusable in allowing them, and your action in presenting them for allowance is grossly reprehensible. Without waiting for a review and reconsideration of these bills by a rightful audit, you should at once reimburse to the island treasury the sums thus improperly paid.

Independent of the accounts referred to, your disobedience of the President's order, communicated to you with explicit instructions, directing that requisitions made upon the governor-general for any deficiency in the postal revenue must have the approval of the Postmaster-General, admits of no palliation.

This letter will be handed to you by Capt. William B. Smith, inspector in charge of the Washington division, who, as you are informed by another communication of this date, proceeds to Cuba under orders to make a thorough investigation.

Respectfully yours,

CH. EMORY SMITH,
Postmaster-General.

Hon. E. G. RATHBONE.

Director-General of Posts, Habana, Cuba.

At practically the same time Hon. J. L. Bristow, Fourth Assistant Postmaster-General, was sent to Cuba, and, on May 19, 1900, Rathbone was suspended and Bristow assumed the duties of his office, as acting director-general of posts. (P. 346, Record.)

June 28, 1900, Mr. Bristow returned to the United States and filed with the War Department an elaborate report of the results of the investigations that had been made.

Upon examination of the same, the Secretary of War ordered General Wood to return to the United States for consultation. Upon his arrival at Washington, the Secretary of War communicated to him the nature of Mr. Bristow's report. According to this report, the postal funds and resources of Cuba had been fraudulently depleted and robbed by Neely, Reeves, and others, to the amount—as nearly as could be ascertained—of more than \$130,000.

The frauds and offenses committed were shown by the report to have been of many kinds, embracing misappropriation of funds, embezzlement, obtaining money under false pretenses, forgery, and falsification of accounts, but the most startling item set forth in the list of crimes committed was in connection with the destruction of a portion of the surcharged stamps still unused, when, on or about August 31, 1899, Neely, the chief of the bureau of finance, was furnished with an adequate supply of the new stamps that had been specially prepared and printed at Washington for use in Cuba.

It was found by the expert accountants, and so reported by Mr. Bristow, that of the total amount of \$522,000 of surcharged stamps received from Washington prior to August 31, 1899, the full amount of \$228,740.94 had been issued and delivered to bonded postmasters throughout the island, and that credit therefor had been duly given in the proper accounts. There could not, therefore, be still on hand unused more than the balance remaining after deducting from \$522,000, the full amount originally delivered, the sum of \$228,740.94, the amount issued to bonded postmasters and duly credited, or \$293,259.06.

This balance of surcharged stamps should have been returned to Washington, and the account of the same there closed, upon due verification, with the proper credit therefor. But, upon representation by Neely that he needed the room they occupied in the vault where they were deposited, Rathbone, as director-general of posts instead of ordering them returned to Washington, appointed Neely their custodian, who stood charged with the same, and Reeves, the chief of the bureau, who kept the accounts, together with Delano Marfield, who was then acting as chief of the bureau of registration, a commission to destroy the same.

Mr. Marfield, who appears to have had nothing to do with any of the frauds, described under oath, as shown by Mr. Bristow's report, how, under the direction of Neely, the stamps were removed in packages from the vault and taken to a furnace, where they were cast into the flames and, as he supposed, destroyed, to the amount, on September 11, 1899, of \$310,000 and on December 13, 1899, of \$82,589.37, making a total of \$392,589.37.

There was no opening or counting of the contents except of a few of the packages, and there was no calling off or checking as the destruction proceeded except by Neely and Reeves.

A report of the transaction, signed by Neely, Reeves, and Marfield was then made to Rathbone, saying that there had been destroyed in the manner shown the amount of \$392,589.37, or \$99,330.31 more than they could possibly have to destroy if the entire balance then unused had been destroyed. Rathbone thereupon ordered Neely to be credited accordingly.

It was further found that small amounts of surcharged stamps were afterwards discovered to have been undestroyed, out of which sales were made from time to time to stamp collectors, and which were in several instances, to the amount of \$100 in each instance, being used and credited in other ways, showing that the whole amount of the true balance had not been destroyed.

Briefly stated, General Bristow's report showed that Neely thus received a false credit on account of the alleged destruction of surcharged stamps of not less than \$100,000.

Rathbone's relation to this transaction was shown by General Bristow's report to be of such character that both the Secretary of War and General Wood were of the opinion that he was in complicity with Neely and Reeves in the fraud perpetrated in connection with the destruction of the surcharged stamps; and it was further shown by the report that he was, in the opinion of Mr. Bristow, guilty of numerous frauds of various kinds on his own account.

Whether he was guilty of any of the offenses so charged or entirely innocent of the same it was not the province of the committee to determine, and the committee did not make any investigation with such a

purpose in view. The object of the investigation was to ascertain whether there was any basis for the charges made by Rathbone against General Wood, and the reference to the postal frauds in Cuba and the report of General Bristow as to Rathbone's apparent connection therewith is made merely to show the situation as then presented with which General Wood had to deal, and thus shed light on the orders he made, of which there is complaint.

CHARACTER OF ORDERS.

Looking now at those orders in this light, it will be observed that all of them relate to the preliminary stages of the prosecution, while it was yet before the court of first instance, and that they have reference to the amount of bail that should be required in certain cases, the time of arrest or suspension of arrest in one or two cases, and matters purely of an executive and police character; and not one of them is complained of as working any harm to any one or as being oppressive upon anybody, except only that of July 27, 1900, fixing the amount of bail in the case of Rathbone at \$25,000 (being No. 9 of the orders complained of).

This order, to be rightly judged, must be read in connection with General Wood's telegram of July 28. These two telegrams were as follows:

ARDSLEY ON HUDSON, *July 27, 1900.*

Colonel SCOTT,

Adjutant-General, Habana:

Direct Rathbone's arrest by proper author ties at once. Bail should be at least \$25,000. Under no circumstances permit his escape before arrest by court. Developments here render this action imperative. Present official copy of this telegram to the court.

WOOD.

And

NEW YORK, *July 28.*

SCOTT, *Adjutant-General, Habana:*

Telegram sent you yesterday in reference to postal cases was not intended to be mandatory upon the judge as to amount, but a suggestion based upon the gravity of the situation here. Sail this morning.

WOOD.

Both of these telegrams were communicated to the court, and it was the duty of the court, in consequence, to bear both of them in mind in fixing the amount of Rathbone's bail.

Bearing both in mind, the judge knew that while General Wood thought the bail should be at least \$25,000, yet he was at liberty to fix it at any less sum he should deem sufficient.

The judge fixed the bond at the amount named by General Wood, presumably because he agreed with General Wood that the amount named was no larger than it should be, for he was doubtless, like General Wood and the Secretary of War, thinking not only of

the \$4,000 for which Rathbone was then under arrest, but also of his apparent complicity with Neely and Reeves in the many other graver and more serious frauds and crimes that made up the general situation.

What the judge did in refusing the bail offered and in demanding a cash deposit is of no moment so far as the present investigation is concerned, for the reason that General Wood had nothing to do therewith, he being at the time enroute, by sea, from New York to Habana.

On this point the Secretary of War says in his testimony, commencing at page 754 of the record:

The CHAIRMAN. Is there anything further on that point?

Secretary Root. I had been very unwilling and General Wood had been very unwilling to arrest Mr. Rathbone, and I had instructed him—authorized him, perhaps I should say—to refrain from arresting Mr. Rathbone just as long as he possibly could with safety. Then very gross frauds and speculations had occurred in Mr. Rathbone's department, and there were numerous indications tending to show misconduct on Mr. Rathbone's part, and it was not considered, and I did not consider, and I said to General Wood that I did not consider, that it would be consistent with our duty to permit Mr. Rathbone to leave the island of Cuba until the investigation had been so completely finished as to make it certain that he was not one of the guilty parties. At the time when this telegram was sent, July, 1900, there were indications that Mr. Rathbone was about leaving Cuba. Whether the indications were right or wrong I do not know, but there were such indications, and I told General Wood that I did not think we should delay any longer and that he must proceed to arrest Mr. Rathbone, and he sent this telegram.

Senator FORAKER. What did you say as to the amount of bail General Wood spoke of?

Secretary Root. I do not remember whether we spoke of the amount of bail or not, but I knew at that time the amount of bail required, and in my judgment then, and now, the amount was reasonable.

Senator FORAKER. He was arrested in pursuance of that order upon a charge of misappropriating about \$4,000 only. I want to ask whether or not when the arrest was ordered you had in mind anything beyond that particular charge, or whether you knew of that particular charge standing by itself?

Secretary Root. I did not know what particular charge he would be arrested on. His concern in the whole field of fraud was what was in my mind and what he was to be held accountable for.

Senator FORAKER. You had then before you Mr. Bristow's report?

Secretary Root. Yes.

Senator FORAKER. Which set out in detail and amount how a fraud of about \$100,000, or perhaps more, had been perpetrated in the destruction of some surcharged stamps, had you not?

Secretary Root. Yes, sir.

Senator FORAKER. By a commission which Mr. Rathbone had appointed?

Secretary Root. Yes.

Senator FORAKER. Consisting of Mr. Neely, Reeves, and Marfield?

Secretary Root. Yes; and I had the report which showed that right under Rathbone's nose a very large amount of money had been stolen.

Senator FORAKER. Yes.

Secretary Root. And I knew that it had been made possible; I knew certainly that it had been made possible by Mr. Rathbone's refusal to submit the vouchers for expenditure to the general accounting and auditing system of the island, because I had been concerned for a considerable time in endeavoring to get those vouchers. Back in January, within a few weeks after General Wood went to Habana, attention was called by the War Department to the fact that the expenditures of the Post-Office Department in Cuba were coming in gross, and not coming in detail and with the explanations which were required here, and that led to a call for the vouchers of the postal expenditures. I went to Cuba in March, 1900, and found those vouchers had not been furnished and General Wood was in great trouble about it.

The fact that these expenditures out of insular funds were going on and he did not know and the auditor of the island did not know whether they were going on properly or not was the cause of great trouble, and I sent for Mr. Rathbone and had a talk with him on the subject, and told him he must furnish those vouchers, and was pretty peremptory and sharp with him on the subject, and he finally said that he would, and shortly after I came back here came this exposure of the fact that the vouchers that had been held back really covered this disgraceful series of frauds. I knew that, and I considered that Mr. Rathbone's relations to the whole series were under investigation and that he might or might not be found to be responsible for the whole. I considered \$25,000 to be a very reasonable bail.

May I say one other thing about this? This expression as to the amount of bail has been referred to as being an indication of improper control on General Wood's part. I never knew a case in which the prosecuting officer was not called upon to say what bail he wanted. I never went into court in prosecuting a case, and I do not think any gentleman here ever did, that the prosecuting officer was not called upon to fix, in the first instance, the amount of bail. The court ordinarily takes whatever the prosecuting officer says. Sometimes, if there is objection to it, the court will hear discussion upon it, and sometimes change the amount of bail that the prosecuting officer fixes; but that is the invariable rule, and it never entered my head that there was anything out of the way about it.

Senator FORAKER. That is because the prosecuting attorney is supposed to have investigated the case and to be familiar with its gravity, if it is a grave matter, and for that reason is supposed to be better qualified to say what bail should be required than the court is really?

Secretary Root. Yes, sir.

Attention is called in this connection also to the statement of the president of the court of audiencia, found at page 367 of the record, and also to the statement of Mr. Justice Jado (page 368 of the record), and also to the statement of Arturo Hevia, the fiscal who prosecuted the postal fraud cases, found at page 368-373 of the record.

The testimony of all these officials is to the effect that the court of audiencia in the trial of the postal cases was not interfered with by General Wood or anybody else with respect to any matters of judicial cognizance.

ORDER No. 11.

As to the order No. 11, as set forth herein, being that of November 12, 1901, addressed to the secretary of justice and extending for ten days the time allowed by law in which the defendants could file answers, it would seem to be enough to say that it was granted on the application of the defendants and for their benefit. Surely there is no evidence of oppression or abuse of power in enlarging or extending the time fixed by law for the defendants to answer the charges that had been made against them, nor is there any such claim.

EX PARTE DEPOSITIONS.

The only other order complained of was that of December 6, 1900, authorizing the use upon the trial of what has been referred to by Rathbone and others who are opposing confirmation as ex parte depositions, and inasmuch as the second charge is based on that fact alone, it will be considered under that charge, which is as follows:

I charge General Wood—

2. With authorizing the use of ex parte depositions in the postal cases, a proceeding which is contrary to the law and the principles of law, and in this case contrary to instructions given by the Secretary of War.

The following is the order relied upon to support this charge:

OFFICE OF THE SECRETARY OF JUSTICE,
Habana, December 6, 1901.

To the AUDIENCIA OF HABANA:

In regard to the letter of this office dated November 14, 1901, in relation to the cases pending of C. W. F. Neely and others, known as the post-office cases, by which letter it was forbidden to use as evidence in the trial the results of the interrogatory letters sent to the United States, the military governor directs me to inform you that the said letter of the 14th of November, 1901, and the instructions therein contained are by this letter repealed, and that the use of the results of the interrogatory letters are allowed in the trial of the postal cases.

Very respectfully,

VARELA JADO,
Secretary of Justice.

(Page 315, record.)

The following statement, made by the Secretary of War in a communication addressed to a member of the committee, which was repeated, in effect, in his testimony at pages 757-763 of the record, completely answers and disposes of this charge:

In preparing the sumario in the cases against Neely and Rathbone it was necessary to take depositions in the United States. On November 9, 1901, it came to my attention that the Government was intending to use some of these depositions on the trial of the case. I was of opinion that, even if permitted by the Spanish law of criminal procedure, the Government ought not to use testimony secured without

affording the defense an opportunity to appear and cross-examine the witnesses. I was assured that such opportunity had not been afforded Rathbone as to the testimony taken in the United States, whereupon I advised the military governor as follows:

"I understand that during my absence from Washington, and while Mr. Fosnes, the director-general of posts of Cuba, was here, something was said indicating that there possibly may be an intention on the part of the prosecuting officers conducting the post-office frauds in Cuba to use the answers to the letters requisitorial sent to this country as evidence upon the trial. This must not be permitted. The act of Congress, approved June 6, 1900, for extradition of persons charged with crime in any foreign country or territory occupied by or under the control of the United States provides that the authorities in control of said country or territory shall secure to such persons 'a fair and impartial trial.' That duty rests upon the War Department. It is not a fair and impartial trial, according to the ideas embodied in our American constitutions, to try a man for crime on *ex parte* affidavits made by persons whom he has had no opportunity to cross-examine. * * * Any fact stated in them which is deemed to be necessary to the maintenance of the prosecution must be established by the oral testimony of witnesses produced in court, with an opportunity for cross-examination. Every effort will be made to send such witnesses to Cuba."

This letter, as appears on its face, was intended as a direction to the attorneys engaged in prosecuting the case and to advise them of the necessity of securing the attendance of witnesses. The letter arrived in Habana during the absence of General Wood, who was then on a tour of inspection in the eastern part of the island. The substance of the letter was incorporated in an order issued November 14, 1901, which order was communicated to the audiencia.

I subsequently learned that notice of the taking of the depositions had been served on Rathbone, and that his acceptance thereof in writing appeared on each of the letters rogatory on which said depositions were taken; that he had had full and ample opportunity to file cross-interrogatories, or to arrange for cross-examination of the witnesses.

On December 6, 1901, I advised the military governor as follows:

WAR DEPARTMENT,
Washington, December 6, 1901.

SIR: As it now appears that full opportunity was afforded to the defendants in the post-office fraud cases in Cuba to cross-examine the witnesses named in the letters requisitorial sent to this country in accordance with the law and practice of Cuba, there would seem to be no adequate reason why the fiscal should not offer upon the trial the evidence obtained under such letters, leaving the court before which the trial is to be had to determine upon its competency and admissibility.

My letter of November 9 is therefore to be deemed modified accordingly as to all depositions taken under the letters requisitorial upon which a full and fair opportunity to file cross-interrogatories was afforded.

Very respectfully,

ELIHU ROOT,

Secretary of War.

Brig. Gen. LEONARD WOOD,
Military Governor of Cuba.

But for other reasons there is no foundation for the charge. The depositions referred to were not ex parte depositions. They were depositions taken upon letters rogatory, or requisitorial, as they are sometimes called, of witnesses beyond the jurisdiction of the court in the United States. These depositions were taken in accordance with the law and the practice in effect in Cuba at the time. In accordance with that practice, either the prosecution or the defendants had a right to submit interrogatories to the court, and the court, deeming them pertinent, had a right to submit them to the opposite side for cross-interrogatories, if it should be desired to submit any. Letters could not be issued until all this had been done, and the record shows that no letters were issued in any instance in these cases until the opposite side had opportunity to submit cross-interrogatories.

The record further shows that Mr. Rathbone was the first to avail himself of this provision and that he took the depositions of 14 witnesses in the United States in this manner.

The record further shows that the prosecution afterwards took the depositions of a number of witnesses in the United States, but that in each and every instance notice thereof, with a copy of the questions to be propounded, was served upon Mr. Rathbone or his attorneys and acknowledged either by Mr. Rathbone or his attorneys, and that in some instances Mr. Rathbone submitted cross-interrogatories and in others he waived his right to do so.

It was said by Mr. Rathbone's attorney, Mr. Desvermine, who testified before the committee, that Mr. Rathbone should not be bound by the depositions so taken, although he had opportunity for cross-examination, because they were taken while the *sumario* was being made up, and not for use on the trial of the cause; but it is shown by the exhibits filed before the committee by Mr. Rathbone himself that after the *sumario* had been made up, of which these depositions and other documents had been made a part, the fiscal filed his *acusacion*, a copy of which is found at page 250-274 of the record, and to which he attached a statement (page 269), as was required by the practice in that court, of the testimony upon which he would rely, and which he was required to and did submit in support of his *acusacion*. This statement is the sixth paragraph of the *acusacion*, and reads as follows:

The fiscal intends to use the following proofs:

(1) The defendants' confession in case they would depose; (2) the proofs taken from the attached list of documents; (3) the proofs by witnesses—a list of the same is attached; (4) the proofs by experts, auditing, mercantile, caligraph, and surveying experts, included in the attached list.

Then follows, at pages 270-274, both inclusive, a list of the documents and witnesses and depositions so submitted.

Among them is found, at page 273, the same list of depositions, name for name, that are mentioned by Mr. Rathbone in his Exhibit 29 (p. 315 of the record) as the ex parte depositions complained of as improperly used at the trial.

Immediately following the *acusación* and the list of proofs and witnesses and depositions submitted by the fiscal in support of the same, at the bottom of page 274 of the record, commences the answer of Mr. Rathbone.

In this answer, and as part of the same, at page 283 of the record, Mr. Rathbone, through his attorneys, states upon what proof he will rely to support his defense, as follows:

The proof which is of interest to our client is contained in the following paragraphs:

I. We submit in the first place, as if reproduced, all of the evidence given by the fiscal, making it entirely ours.

II. In addition to the fiscal's evidence, we give the following as documentary evidence:

First. We give as evidence which we intend to use, and to which we will refer during the trial in each instance which naturally will arise, all and absolutely all of the documents which are included in the records of this suit as evidence of conviction, and those which pertain to the occurrence on account of which the proceedings were instituted which were forwarded to the juzgado (the lower court) and which are now kept in the safe of the court. It is impossible to enumerate them. It is not possible for us to determine which of them interest us most. We have not had time to read them all. Legal friction must not stand over the truth, nor can it be feared that the court, when admitting and certifying the evidence, will do so in a narrow-minded way. We hope, then, that this evidence which we submit will be accepted without any difficulty.

In addition to the foregoing, at page 288 of this answer, occurs the following:

HABANA, November 23, 1901.

List of witnesses that we, Pablo Desvergne and Jose Gonzalez Lamuza, lawyers and representatives of Mr. E. G. Rathbone, present in the suit carried on against him and others, for frauds committed in the department of posts, *in addition* to the experts and witnesses named by the fiscal, etc.

In other words, it is shown by this record, put in evidence before the committee by Mr. Rathbone himself, that the depositions complained of as ex parte depositions were submitted by the fiscal in support of his *acusación* and accepted by Mr. Rathbone through his attorneys and made his own testimony, to be used by him as well as by the prosecution on the trial of the cause in the court of audiencia.

In view, therefore, of the fact that the Secretary of War, upon being fully informed, revoked his order, first made on November 9, 1900, prohibiting the use of these depositions, and in view of the fact that they were not ex parte depositions, but depositions taken in accordance with the law then in force in Cuba, upon notice duly given and opportunity fully afforded to Rathbone to cross-examine, and in view of the fact that they were offered in evidence by the fiscal in support of his acusación and accepted, and also offered as "entirely ours" and "all and absolutely all," without any question by the attorneys of Mr. Rathbone in support of the answer they filed in his behalf, the committee were of the opinion that the second charge was without any merit.

On this point the Secretary of War testified, at page 767, as follows:

Secretary Root. * * * I examined the record. I sent for the original record and went over it. I found that the representations made to me by General Wood that there had been an opportunity for cross-examining were correct. I found that Mr. Rathbone had himself been the first to take advantage of the statute which permitted the taking of depositions out of the country. He had applied for an order permitting the taking of depositions, and it had been granted, and he had taken them. I found that a similar order was applied for by the prosecution, and was granted, and on full notice to the defendants, and I found the acknowledgment of the receipt of service of the interrogatories and of the opportunity to submit cross-interrogatories in, I think, every case, and most of the acknowledgments of service were signed by Mr. Rathbone in his own handwriting, on the record. I found that in some of the cases Mr. Rathbone had taken advantage of the opportunity to cross-examine, and had cross-examined.

Senator TELLER. And in some he had not.

Secretary Root. And in some he had not. I found that when the fiscal presented his accusation, appending a statement of the testimony on which he would rely, he enumerated these depositions as being a part of the testimony on which he would rely, designating them by numbers. And I found that Mr. Rathbone's counsel, in presenting their answer, stated that they would rely on these depositions.

* * * * *

Secretary Root. I examined that record for the purpose of seeing whether there had been any substantial injustice done to Mr. Rathbone by the admission of that testimony, and the impression produced on my mind was that there had not; that he had had a fair opportunity.

Senator TELLER. Now, Mr. Secretary, that is your opinion, that he had a fair trial?

Secretary Root. That is my impression. Unfortunately I was in a position where it was my official duty to form an opinion.

Senator FORAKER. It was your duty to have an opinion about it, was it not?

Secretary Root. Yes, sir.

Senator FORAKER. And you were making this examination with a view to determining whether you ought to have anything revoked or undone that had been done?

Secretary Root. Precisely.

THE \$100,000 BOND.

Before passing from the questions raised by charges 1 and 2, relating to the prosecution of the postal fraud cases, we call attention to the statement of General Wood (p. 354 et seq., record) as to the requirement by the court after the conviction and sentence of Rathbone of an appeal bond, pending appeal in the sum of \$100,000, and the reasons assigned by the court for not accepting the Fidelity and Trust Company, of Maryland, as surety until directed to do so by Secretary Root and General Wood.

In view of the fact that Rathbone had been at that time tried and found guilty, not only of individual offenses of a serious character, but also of complicity with Neely and Reeves in the commission of frauds on the postal revenues of Cuba, amounting to more than \$100,000, the amount of the bond was not excessive, and the reason given by the court for not accepting the surety company was not captious or arbitrary, but sound and legitimate. General Wood's statement shows that instead of unnecessarily oppressing, harassing, and distressing Rathbone, the prosecuting officers, as represented and directed by the Secretary of War and General Wood, were doing all they could consistently to favor him.

General Wood's statement, commencing at the bottom of page 354 of the Record, is as follows:

Briefly stated, the matter is as follows: The entire action of the Government in this case was in Mr. Rathbone's interests. In the first place, at my request the secretary of justice asked the supreme court to hold an extraordinary session in order to hear the arguments as to the issuing of a writ of habeas corpus. The requisition was honored, and it was decreed that he should be at liberty on bail. The court decreed that Mr. Rathbone's bail should be \$100,000 cash. Mr. Rathbone, through his attorneys, offered a bond of the Fidelity and Trust Company of Maryland. The audiencia rejected this bond, on the ground that it was not a cash bond. The reasons of the audiencia, as I understand them, for rejecting this bond were as follows:

The security of the company for bonds issued in Cuba was \$25,000, which was deposited in the treasury of the island. By sentence of the audiencia in the post-office cases, bonds in excess of this amount had been forfeited and had not been paid. In addition, the Government was claiming payment from the company on other bonds, and further, the company had issued surety bonds on Government officials to an amount exceeding \$1,000,000. The court was not certain as to whether or not it could collect upon the security and property of the company in the United States; and in any case it held that the bond tendered was not a cash one or its equivalent, and they declined to accept it as such. This action was entirely within the prerogative of the court.

(See Criminal Procedure, chapter 9, paragraph 591, and order of Secretary of Justice Lanuza, 109, article 9, series of 1899.)

During the consideration of bail by the court the following telegram was received from the Secretary of War, dated April 11, 1902:

Wood:

It is reported here that bail, pending appeal, has been fixed for Rathbone at \$100,000, and that a cash deposit is required, and a bond from Fidelity and Deposit Company of Maryland is objected to. I do not think this is reasonable. When the amount of bail has been fixed by the court the character of the security is ordinarily to be passed upon by the prosecuting officer—that is to say, by the executive department of the Government which prosecutes. The natural and ordinary security for the appellant to present is bond on good security. It is customary in this country to accept surety companies, and that is provided for generally throughout the United States by statute. The company named has been uniformly accepted by the War Department and military government of Cuba as sufficient surety in other matters. I think it would be unreasonable and unfair to the defendants in this case to reject that security if a good bond of that company is offered for the amount of bail fixed by the court. You should consent to its acceptance.

The following telegram was sent in reply to the above:

APRIL 11.

SECRETARY OF WAR, Washington:

Your telegram received. The character of the bail was fixed by the court in their discretion as law provides. See Criminal Procedure, chapter 9, paragraph 591, and order Lanuza, secretary of justice, 109, article 9. I know nothing of the action of the court concerning bond Fidelity Company. The agent of the company called Saturday, and was promptly told to transact his business only with the court; that character of bail rests entirely with them, and that I had nothing whatever to do with it. If bond of this company has been refused, such action of the court is without influence and without suggestion. It will be necessary for me to modify existing laws in order to compel the court to accept this bond, but I do not think such action will be advisable under the circumstances. I desire to emphasize the fact that the court has been left entirely free in this entire case.

Wood.

April 12, 1902, the following telegram was sent the Secretary of War:

Have seen president of the audiencia and fiscal of supreme court. President of the audiencia states that bond of Fidelity Company would not be accepted by him; does not furnish sufficient security. Fiscal of supreme court is of same opinion. This company's deposit in the island is not sufficient to cover amount of this bond, and it is doubtful if the insular government could recover in the United States. This company has not yet paid bond of Neely and Rathbone and other cases. Its operation has been so unsatisfactory that on April 1, this year, notice was served on its representative that there must be a change of methods or insular government would revert to old form of security. Finding of the court places Neely and Rathbone in exactly the same category. Aside from all question of power of the court to type of security, I believe it unadvisable to accept bond of the Fidelity Company in these cases.

Wood.

The following telegram, 14th, received from the Secretary of War:

Wood, Havana:

I see no reason why a civil bond should not be executed for Rathbone pending appeal, and I wish it could be done.

ROOT, *Secretary of War.*

The following letter, written by the military governor of the island, was addressed to the fiscal of the audiencia of Habana:

SIR: I have the honor to inform you that I, as military governor, desire that you accept the bond of \$100,000, American money, presented by the Fidelity and Deposit Company of Maryland as security in the case of Mr. E. G. Rathbone, late director-general of posts. I am aware, from your statement and that of the fiscal of the supreme court, that you do not consider this bond as strictly in compliance with order of the court for a cash bond, but the Government is willing to waive any technicality of this description, in order that there may be no question as to Mr. Rathbone having received every opportunity for bail pending the decision of the supreme court.

Very respectfully,

LEONARD WOOD,
Military Governor.

THE TESTIMONY AND PARDON OF REEVES.

Complaint is also made against General Wood because Reeves was allowed to testify without being sworn, on the ground that he was himself on trial as one of the defendants, although, as it is alleged, he had been promised immunity for testifying in behalf of the prosecution. It has not been made clear by any testimony that has been offered what is claimed as to any arrangement that may have been made with Reeves by the prosecution. The only witness who pretends to testify on this subject is Dr. C. E. Fisher, and he does not pretend to have done more than to initiate negotiations with General Wood for the protection of Reeves if he would make a confession and testify to the truth. (Pages 615-616 and 625-626, record.)

On the other hand, General Wood says at page 357 of the record:

In reference to the statement made at the top of page 51 [referring to Rathbone's statement to the Committee on Relations with Cuba, which General Wood was answering], that of Reeves having been promised a pardon as an inducement to turn State's evidence, that is not true. Reeves was never promised anything, but advised to tell the whole truth and nothing but the truth.

There is nothing in the record to discredit this statement of General Wood:

But, assuming for the sake of the argument that a pardon was promised Reeves, that fact would amount to nothing more than is usual in the prosecution of criminal cases in this country, as well as in that of every other. And so far as his testimony being given without being sworn is concerned, that was strictly in accord with the law and the practice then in force in Cuba. His testimony was received not as sworn evidence, but as a mere statement, made by one of the accused defendants not under oath, to be received by the court as such state-

ment and to be given by the court such weight, and only such weight, as such a statement made by an accused defendant on trial might in the judgment of the court be entitled to receive in view of all his surroundings and apparent credibility. There is no evidence to show that the statement of Reeves was given any other weight by the court than it was entitled to have when so received and weighed by the court.

It should be further remembered with respect to this testimony that it is shown at pages 614 and 615 of the record that the confession of Reeves and the communication of it to General Wood were brought about by Dr. C. E. Fisher, a witness called before the committee by Rathbone, and that he says at pages 616, 625, and 626 that he believes Reeves told him the truth and told General Wood the truth, and that he testified to the truth, and if that be true, only the ends of justice were subserved by the credence, whatever it may have been, that was attached by the court to the statements he made.

But, aside from all this, Reeves had a right to testify as he did, and the court had a right to receive his statements for what they were worth, and there is no evidence whatever that they were taken for more than they were worth, and General Wood had a right to pardon Reeves, as he did, for the reasons assigned by him therefor. All this was consistent with the requirements of justice and within the rules and limitations of the practice and the code of criminal procedure in force in Cuba at the time.

General Wood says (p. 356 of the Record) in his statement in answer to the statement of Rathbone, filed with the Committee on Relations with Cuba, above referred to:

Relative to pardon of W. H. Reeves. Reeves was fully pardoned. He was a witness for the State in the post-office cases. The action was based on the following grounds: Reeves surrendered some \$4,600 in money which had been given him by Neely, and gave the Government all the information in his possession relative to the methods by which the frauds were committed. Reeves was a man of weak character, and I believed was simply a tool of Rathbone and Neely. In pardoning him I exercised the authority vested in me, and I considered that his attitude in returning the money and in furnishing the State all the evidence in his power was of such value as to in effect constitute him a witness for the State, for although he had been a defendant, he had virtually made no defense, but had confessed freely and fully concerning the frauds committed in the post-office department.

On page 44 reference is made to the amnesty proclamation of the Cuban Government. There is no doubt that a request to the Cuban Government made by Mr. Rathbone, that he wanted to be exempted from the amnesty and to appear before the supreme court on the merits of the appeal which he had made, would have been granted; but all familiar with this case appreciate that this was about the last thing that Mr. Rathbone was likely to have done.

The balance of the subject-matter on page 44 has already been discussed; also on page 45 and a portion of page 46.

There is one statement on page 46 which I feel should be denied, and that is the statement that the action of the military government created the impression on the minds of the judges that the military governor desired the conviction of the defendant. Nothing could be further from the facts. My instructions to the prosecuting officer were to always give these men the benefit of the doubt. Especially was this true in regard to Mr. Rathbone.

In reference to the declaration concerning article 387, Penal Code, it is hardly necessary to discuss this. I had full power to modify the law, and I was under every obligation to see that it was justly and fairly administered. As has already been noted, almost every action taken by me was directly in favor of the defendant, Mr. Rathbone.

The question already referred to as to ex parte evidence has been discussed.

The same is true concerning declaration in first part of page 48.

In reference to the Constitution of the United States, Mr. Rathbone is perfectly aware that Cuba is a foreign country; that the laws in force were laws in force in a large part of continental Europe, and that a trial under the civil law varies essentially from a trial under common law. He was given every consideration authorized or guaranteed by the laws in force in Cuba. He had every possible opportunity to prepare his defense. He was defended by the ablest lawyers of the island, and at the time of the transfer of the military government he had been granted an appeal to the supreme court of the island of Cuba, which court had had its powers extended by special order promulgated under direction of the President, empowering it to practically retry the case, the original power of the court being simply power to hear appeals in cassation, under which it could throw out or modify the sentence or declare the trial null and void on account of irregularity. Under the powers given it in the order promulgated, as above stated, it could do all of these things, and in addition summon witnesses, rehear the evidence, and, in short, retry the case. Mr. Rathbone did not avail himself of any of the opportunities thus offered him to disprove the findings of the audiencia of Habana.

The matter referred to on pages 48 and 49 relates entirely to matters which have already been covered, and is represented in the charge already made.

In reference to Reeves not being sworn, as stated in paragraph 3, page 50, the fiscal states—

that in the trial of Mr. Rathbone the testimony of Reeves was proposed by the fiscal and by the lawyers in the character of a proof of confession, and the court admitted it in this character. Reeves was not proposed as a witness, nor was it at all possible to do so, because he also was one of those accused, just as much as Mr. Rathbone and Neely. At the oral trial Reeves was questioned by the state and by the defense of the other accused, who submitted him to an extensive and minute examination, formulating all the questions they desired, especially the defense of Mr. Rathbone. As Reeves did not give his testimony as a witness, but as one accused, an oath could not be required of him, as provided in article 387 of the Law of Criminal Procedure. The examination of Reeves by the defense of Rathbone was so minute that between Desvergne and Lanzza he was asked more than a hundred and fifty questions. All that I have written is substantiated in writing by the proceedings and by the stenographer's notes.

In reference to the statement made at the top of page 51, that of Reeves having been promised a pardon as an inducement to turn state's evidence, that is not true. Reeves was never promised anything, but advised to tell the whole truth and nothing but the truth.

RATHBONE HAD A FAIR TRIAL.

So far as the general charge is concerned that Rathbone and others implicated in the postal frauds did not have a fair trial, because of interference by General Wood, no evidence was produced to the committee in support of the same. On the contrary, in so far as the committee were required by the charges they investigated and the testimony they heard to consider the trial of the postal fraud cases, and particularly the trial of Rathbone, they were of the opinion that General Wood stated the exact truth when, at page 362 of the record, in closing his statement made in answer to the statement of Mr. Rathbone before the Senate Committee on Relations with Cuba, he said:

In conclusion, I reiterate most positively that every effort was made to give Mr. Rathbone an absolutely fair trial, and I declare that, to the best of my knowledge and belief, he did have such a trial; that he was given every opportunity to prepare his defense; that he was defended by the ablest lawyers in the island; that no influence whatever, directly or indirectly, was used to influence in any way the judgment of the court or affect its personnel. The conviction was based mostly on documentary evidence, some of which at the present time is in the archives of the military government. The written records of the trial are in the hands of the audiencia of Habana and constitute some twenty-four volumes. The trial was a long one, covering in its preliminary stages nearly two years. The Secretary of War was kept fully informed of the progress of the trial from first to last, and, as will be seen from the foregoing portions of this communication, he was fully aware of the conditions existing.

In April, 1902, the Secretary of War visited Habana, and in order, as he said, that he might be able to state that he had personally seen the receipts of Mr. Rathbone and his lawyers upon the interrogatory letters upon which Mr. Rathbone declares he had no opportunity to submit cross-interrogatories, the records of the court were brought to the palace and the Secretary spent several hours personally examining each and every requisitorial letter which was forwarded to the United States, and on each and every one of which he found the signature of either Mr. Rathbone or his attorneys, showing that they not only had had full access to these letters, but that they had had some of them in their possession for a comparatively long period of time—evidence that if they did not submit cross-interrogatories it was because they had very good reasons for not doing so.

The press and public of Habana were present throughout the trial. Neither I nor any member of my staff or any officer of the Army was present at the trial except as witnesses, and every possible effort was made to avoid even the appearance of influence. Full stenographic reports of the testimony were taken in Spanish and English, and a copy

of the English text was forwarded by me to the Secretary of War. As under civil procedure oral testimony is not made of record, the transcript of the testimony, although essentially accurate and correct, is not official.

In conclusion I desire to state, after most careful consideration of the statements of Mr. Rathbone in his appeal, that it is so full of misstatements and irrelevant material that, in effect, it amounts to an absolute misrepresentation of facts. It is the complaint of a man who has failed to take advantage of the appeal granted him under the laws of the country in which he was tried, who seeks, by misstatements and the submission of irrelevant and misleading information, to create an impression not warranted by facts.

I should be delighted to appear before your committee and go into this matter in detail, as I most earnestly desire that it be entirely cleared up and disposed of before my departure for the Philippines on March 28, 1903.

It must be remembered that the principal evidence on which Mr. Rathbone was convicted was furnished by inspectors of the Post-Office Department, many of whom in the past had been his friends, and that almost the first direct declaration that I had as to his guilt was from Capt. W. B. Smith, the senior post-office inspector, who came to Cuba for the purpose of inspecting conditions of the department of posts. Their findings were corroborated by Mr. Bristow, and the charges made by them were established and proved beyond question of doubt at a public trial before five judges.

Mr. M. S. Fosnes, Mr. H. T. Gregory, Mr. J. L. Bristow, Capt. W. B. Smith, and other post-office inspectors are all within reach of your committee, and I would respectfully suggest that they be called and fully examined upon this matter.

In conclusion, it might not be inappropriate to invite attention to the fact that Mr. Rathbone's charge practically implies that the military governor, the inspector-general on duty in Cuba, the Fourth Assistant Postmaster-General, a large number of post-office inspectors of established reputation, the auditors of the island of Cuba, and five judges of the audiencia of Habana (three of whom were appointed by Lenuza, Mr. Rathbone's attorney, who was secretary of justice under General Brooke) all conspired to convict him. The creation of such a situation would have been impossible.

The complaint would have had a truer ring had Mr. Rathbone declined to accept a pardon and taken his case before the supreme court of Cuba.

In this connection attention is called to the statement from the War Department, published at page 777 of the record, which shows that of the five judges constituting the court of audiencia, before which court Mr. Rathbone was tried, two of them were appointed as judges by General Brooke and two of them were appointed as fiscais by General Brooke upon the selection and recommendation of Mr. Lanuza, who was the senior counsel for Rathbone. This fact should estop Mr. Rathbone or his counsel from claiming that the justices of the court trying the Rathbone case were not leaders in their profession, honorable judges and honorable men, who could

be relied upon to give, as they say in their statements they did give, a full, fair, impartial, and just trial, according to the codes of procedure then in force in Cuba, and who further say that they were not influenced or interfered with by General Wood or anybody else in the conduct of that trial.

On this point attention is also called to what was said by Secretary Root. He says in his testimony, at page 773, record, that he concurs fully in the statement by General Wood:

"That every effort was made to give Mr. Rathbone an absolutely fair trial, and I declare that, to the best of my knowledge and belief, he did have such a trial; that he was given every opportunity to prepare his defense; that he was defended by the ablest lawyers in the island; that no influence whatever, directly or indirectly, was used to influence in any way the judgment of the court or affect its personnel. The conviction was based mostly on the documentary evidence, some of which at the present time is in the archives of the military governor, etc."

THE JAI ALAI GIFTS.

The third charge made by Mr. Rathbone is as follows:

3. With accepting gifts from an organization commonly known as Jai Alai, to which he had granted a ten years' exclusive concession, the same being a violation of the so-called Foraker law, which prohibited the granting of franchises or concessions during the occupation of the island by the American authorities. The acceptance of these gifts constitutes a violation of article 397 of the Penal Code of Cuba.

In the mere fact that General Wood accepted gifts from the Jai Alai Society, or from others, there is nothing to be criticised. It is simply in each instance a matter of taste, and the committee fully agreed with the Secretary of War, who, with respect to the presents made to General Wood by the Jai Alai Society at the time when General Wood left Cuba, and which are the subject of this charge, said, at page 79 of the record:

WAR DEPARTMENT,
Washington, March 23, 1903.

* * * * *

The "Jai Alai" Company, referred to in the charges, maintained a court in which a game is played, somewhat similar to our game of racket, and in which the Cuban people are interested, much as our people are interested in the game of baseball. The company included many of the best citizens of Habana, and the gift to General Wood, which was made at the time of his departure from the island, had no relation whatever to any official action of his affecting the company, but was a part of the general expression of gratitude by the Cuban people toward the representative of the United States for the just and beneficent government through which the establishment of the Republic of Cuba had been accomplished, and the chief credit of which was

due to General Wood. To have refused this and other gifts made at the same time would have been discourteous, injurious, and unjustifiable. The treatment of the gift at the custom-house was strictly in accordance with law and official propriety.

The charges have no justification.

ELIHU ROOT,
Secretary of War.

The charge was serious, and it was proper to hear testimony with respect to it at great length as the committee did, only because it carried with it the insinuation that General Wood had granted a concession to the Jai Alai Society as set forth in the charge in consideration of the gifts referred to—in short, that he had been guilty of corruption in the matter. There is no testimony whatsoever that supports any such insinuation. On the contrary the testimony, facts, and circumstances are of such character as to warrant the statement that such an insinuation is but a baseless slander.

In the first place, aside from the failure of the testimony to support any such insinuation, the evidence affirmatively refutes it. The record shows that General Wood did not grant any concession to the Jai Alai Society of any character whatsoever, and that consequently, to begin with, there was no basis for any such charge. The Jai Alai Society was duly organized under the laws of Cuba, and secured a grant of its concessions from the municipal authorities of Habana, with the approval of the civil governor of Habana, and never secured any concessions or rights whatever from General Wood as military governor or otherwise. Only two questions with respect to it were ever presented to him. One was as to whether or not the city of Habana had a right to lease certain ground it owned to the Jai Alai Society, on which it desired to erect and maintain its court.

The Judge-Advocate General was of the opinion that such a lease would be in contravention of the law prohibiting the granting of franchises during our occupation of Cuba. The Secretary of War, to whom the question was referred by General Wood, held that it was not in violation of that provision of law for the city of Habana to lease its own property, and directed General Wood to approve the lease that was made. Subsequently, April 26, 1902, shortly prior to the termination of our occupation of Cuba, the Jai Alai Society addressed a letter to General Wood as military governor, saying:

“As the validity of the approval of the civil governor of the regulations of this ball game is being put in question to-day, we appeal to you to duly confirm the validity thereof.”

In answer to this appeal, General Wood, on May 7, 1902, by letter of his adjutant-general, addressed to the Jai Alai Society, in effect declined to make any order such as was requested, for the reason, as stated in such letter, that the rights and concessions of the Jai Alai Society had been approved—

"by the civil governor of the Province of Habana, on the 31st day of January, 1900, after consultation with and approval by the secretary of state and government and the secretary of justice, and the rights acquired by your company are protected by the laws in force."

(Page 504, record.)

The Secretary of War, at the request of the committee, made a statement in writing with respect to this whole matter, and submitted in connection therewith as exhibits all the correspondence and official communications on the subject. This communication from the Secretary of War appears at page 502 et seq. of the record.

In addition to the foregoing statement the Secretary of War testified on this subject, as shown at page 779 et seq. of the record, as follows:

Secretary Root. Does the committee desire anything from me on charge No. 3, in regard to his accepting gifts from an organization commonly known as the Jai Alai?

The CHAIRMAN. I think not, with regard to the gifts, unless you have some special personal knowledge. But in regard to the granting of the franchise—

Senator TELLER. I wanted to ask him about the gifts.

The CHAIRMAN. Very well.

Secretary Root. All right, Senator. While Senator Teller is looking for what he is trying to find, I will call attention to the fact that there is in this charge an assumption which is not correct, namely, in the words "to which he had granted a ten-years' exclusive concession, the same being a violation of the so-called Foraker law." General Wood never granted any concession. The city of Habana, the common council of the city of Habana, had passed a resolution before the American occupation, I think in the year 1898, to lease certain city property, real estate, to a man who was proposing to put up a building for this game. The resolution remained in abeyance during the period of active hostilities up to the time of the change from Spain to the United States. At some time in 1900, I think, the contract under that resolution was made, and the rules and regulations under which the game was to be conducted were approved by the civil governor, and the man went on and formed a corporation and put up this building. As I understand it, he went to record his contract and lease, the ten years' lease, and the notary refused to record it because under the Spanish law a contract relating to the real property of a municipal corporation had to have the approval of the governor-general, and then they came to General Wood to get his approval of this transaction, which was, so far as the city of Habana was concerned, a completed transaction. The judge-advocate of the division was of the opinion—rendered an opinion—that that could not be done because it was in violation of the

Foraker law. That was then referred to the War Department, and Judge Magoon examined the subject and wrote an opinion to the contrary, that it was not in violation of the Foraker law, being merely a disposition by the city of Habana of its own property. That I discussed with him very fully and I agreed with him and approved of the opinion, and it was forwarded to General Wood, and he approved the concession.

* * * * *

Secretary Root. That was, so far as I know, the only thing General Wood ever did in regard to the Jai Alai business, except to go there and play, which he did every day, unless you consider that a letter which was written by his adjutant-general shortly before the turning over of the government was doing something.

Senator TELLER. I do, certainly.

Secretary Root. I do not. Shortly before the government was turned over it appears that there was some question as to the validity of the regulations under which the game was conducted, and an application was made to the military governor to give his approval to the regulations, which, as I understand it, he did not do. Instead of that his adjutant-general wrote, under his direction, a letter to the president of the company saying that on examination of the record it appeared that the regulations had already been approved two years before in accordance with law, by the civil governor of Habana, after consultation with the secretary of state of the government and the secretary of justice, and that they were protected by the law in force.

* * * * *

Senator ALGER. Mr. Secretary, may I ask you, has this game anything to do with gambling, or is the gambling the betting upon the game by outsiders?

Secretary Root. The game has nothing to do with gambling. It is not a gambling game any more than horse racing is a gambling game.

Senator ALGER. It is a game of racquets?

Secretary Root. Yes; a game of skill, and one of the finest that I ever saw."

* * * * *

Secretary Root. There is one other thing about it that I think I ought to say. I had said that General Wood never did anything except approve the contract for lease, which he did under directions from the War Department, unless you regarded the letter of the Adjutant-General, containing the statement of what was found on the examination of the expediente in regard to the action taken two years before by the civil government, as doing something. There was one other subject—not something that General Wood did, but something he did not do—which perhaps should be referred to. The General talked with me about the question as to whether the game should be interfered with on account of the pool-selling feature, and when I was in Habana on one occasion at least I went out and saw the game. I found there a game somewhat similar to racket, or a game played in a long court—a game distinctly of skill—one of the most interesting and exciting games of skill I have ever seen. I think you have had a full description of it, and I will not go into that. Pool tickets were being sold. I am not very familiar with the precise methods, any more than I am with the precise method of book-making on our races or with the old

method that some years ago was practiced in this country called the French mutual pools. I judge it was more like that. But the game was not a gambling game; the betting on the game was an incident, just as the betting on horse races is an incident in our own country, and the question was whether that betting should be stopped.

We had already stopped lotteries, and I think you have here before you a lot of orders and papers connected with the suppression of lotteries. We had also stopped bull fights; we had stopped cock fights, and we had been obliged to use very stringent measures in doing that. That was the great method of gambling—betting on cock fights—and it caused great dissatisfaction when it was stopped. The people had petitioned and requested, and there was undoubtedly among them a feeling that we were oppressive in our imposing upon them a set of ideas that prevail among us and to which they were not accustomed. I felt pretty clear that we had gone as far in imposing upon those Spanish-American people the ideas of a New England community as it was either wise or just we should do, in view of our temporary occupancy, and I said, with the conviction that it was right, that the game should not be interfered with.

The game was lawful. It was in accordance with the laws existing in the island when our occupation commenced, and the laws had not been changed. I did not think it would be a wise thing for us to change those laws. Their laws prohibited games of chance. They did then, as they do now—at all events, before our occupation and through our occupation—prohibit games in which one player raises another; that is, they would prohibit the game of poker, which some gentlemen of my acquaintance think they play better than other gentlemen. But betting on a game of skill was lawful and always had been lawful there, and we did not change the law, and in my judgment it was not wise to change the law. That was the only thing we left to them in the way of a kind of amusement which they had been accustomed to. Of course, General Wood's interest in the game was as an athletic sport; he is an athlete—

Senator FORAKER. In that connection, Mr. Secretary, it has been testified here that there was a rumor down there that he was a stockholder in the Jai Alai corporation. Do you know anything about that? There is no testimony to that effect, except that there was a rumor to that effect.

Senator PETTUS. Oh, yes; there is testimony—that is, some man told somebody else that he had heard so.

Senator FORAKER. Yes.

Secretary ROOT. I never heard it. I certainly do not believe it, and would not believe it without very positive evidence.

Senator SCOTT. My recollection of the laws of our State is that it is lawful for a man or a company of men to sell pools on horse races, but they have to get the right to do that. Now, did General Wood grant anybody the exclusive right to sell those pools?

Secretary ROOT. I do not understand that he did; I do not know of his doing it. The only thing which could be considered as giving that right was the approval of the regulations, the rules, which governed the selling of these pools, by the civil governor of Habana, which was in 1900.

Senator SCOTT. As I understand, the governor-general of the island would have to approve the acts of the civil governor, would he not?

Secretary Root. No. He had to approve the acts of the civil governor—he had to approve the acts of municipality—in the disposition of real estate, and that was the question that came up to the War Department on the claim that the disposition of the real estate in the lease was a violation of the Foraker Act. But the rules, the regulations, which controlled, and, in controlling, authorized this pool selling, never came before the military governor for action at all, and under the law it was not required to come before him.

Senator SCOTT. I think I can make myself plainer, and then you will understand what I am trying to get at and perhaps can answer so that I will have a better answer to my question. I am a director of the fair association at home. Now, when we are going to have our fall races a number of people come and they ask the exclusive right to sell pools for the time of the fair, and of course we give the concession to the men who offer the most money for it. Now, do you know, or do you not, whether any concessions were asked from General Wood for the exclusive privilege of selling pools on this game?

Secretary Root. No; I feel quite certain there were not. There was in the lease that was the subject of consideration that came up to the War Department an exclusive provision—that is, a provision that the lessee should have the exclusive right to build and maintain the game. That exclusive provision was stricken out by General Wood, and I understand that other people had the right to carry on the same kind of game. I think there was a private game there, but I am not positive about that.

It seemed to me that it would be a little bit of hypocrisy to change their law and prohibit them from doing what I knew was done in every State in the Union that I have been in in connection with horse races—what was done last week at Benning during the sessions of this committee, and what is done in my State of New York at the races which are held under the direction of Mr. Whitney, Mr. Belmont, Mr. Keene, and other men of the highest character and standing. I did not think that we had any right, for the sake of making a record that would seem to be to our own advantage, to prohibit those people the things that are really allowed here.

In view of this testimony and these facts, it would seem not only that the testimony does not sustain the third charge made by Mr. Rathbone, but that there is no justification whatever for such charge.

THE RUNCIE ARTICLE.

The fourth charge is as follows:

I also charge him with complicity with another army officer in the preparation and publication of an article reflecting discreditably upon their ranking officer, in violation of an accepted canon of military service, and constituting an offense commonly known as "conduct unbecoming an officer and a gentleman."

This relates to the so-called Runcie article, an article published in the North American Review for February, 1900, signed, "J. E. Runcie."

Runcie was a retired army officer, who had been in Cuba serving in

the capacity of volunteer aid or assistant to General Wood without pay or compensation.

Runcie's rank in the Regular Army was that of lieutenant, but he had served during the Spanish-American war as major of a volunteer Ohio regiment of cavalry.

General Wood and Major Runcie had long been acquaintances and friends.

During the month of October, 1899, Mr. Ray Stannard Baker, representing McClure's Monthly Magazine, arrived at Santiago with letters of introduction to General Wood, whom he informed that he had come to Cuba for the purpose, primarily, of writing an article about General Wood, to be one of a series of articles on men prominently identified with the Spanish-American war, which he had been commissioned to write for publication in McClure's Magazine.

Mr. Baker wanted data for such an article. General Wood thereupon introduced him to Major Runcie, with a request to Major Runcie that he would give Mr. Baker such information as he desired, as he had done with other correspondents (p. 146-148, record.)

Mr. Baker obtained his information, wrote his article, and published it in McClure's Magazine for February, 1900, as shown at page 438 of the record.

Runcie's article published in the North American Review for February, 1900, is found in the record at page 80. It was entitled "American misgovernment of Cuba," and severely criticised the administration of General Brooke, who was then in command of the Division of Cuba.

When the article appeared Major Runcie claimed to be greatly surprised that it should have been published over his name, and charged that Mr. Baker had violated a promise not to allow it to be so published.

It developed later that when Major Runcie prepared his article he forwarded it to Mr. Baker by letter, of which the following is a copy:

SANTIAGO DE CUBA, November 26, 1899.

MY DEAR BAKER: Use this in any way you think fit—in any publication, preferably Harper's Weekly—but don't put my name to it unless you think it necessary. I have had hard work to keep within bounds of space and temper, for it would have been much easier to dictate a volume than to write these few pages. You can cut it as you like, and you can call me a special correspondent or any other hard name, but now is the time to print this where it will be read. Things here have recently been even worse than when you were here, but there seems to be a dawning light around Washington, and it may be the beginning of a better day for Wood, as well as Cuba.

Command me kindly to Frank Norris when you see him, and believe me always,

Faithfully yours,

J. E. RUNCIE.

The publication of this letter was brought about by an attack made in the New York Evening Post upon Mr. Baker, charging him with having published Major Runcie's article over Major Runcie's name, in violation of his promise to the contrary.

This publication occurred on Saturday, March 10, 1900, and the publication of Runcie's letter by Baker, in his defense, as his authority for publishing the article over Runcie's name, followed a few days later.

Following the publication of Runcie's article in the North American Review, General Wood, accepting the assurances of Runcie that Baker had published the article in violation of his promise, wrote to the Secretary of War February 8, 1900, page 149 of the record, and again February 25, 1900, page 150 of the record, stating that he was assured by Major Runcie that the article had not been written for publication over his name, but merely as a compilation of data which Mr. Baker was at liberty to use in articles of his own.

In his letter to the Secretary of War of February 25, 1900, General Wood inclosed another letter addressed to the President (see p. 151 of the record) which purported to be a complete statement of all his knowledge with respect to Major Runcie's article.

In this letter General Wood set forth to the President at length the relations existing between Major Runcie and himself prior to his services in Cuba, and also their relations there, and the services which Major Runcie had been rendering.

He further says in this letter:

Major Runcie informs me that the publication of this article was an entire surprise to him. I had never seen or heard of it until I saw it in the North American Review. Major Runcie also states positively, and without reservation whatever, that the publication of the article was an entire breach of confidence on the part of Mr. Baker, and he regrets it as sincerely as anyone can, because it looks very much like an attack on General Brooke, who is no longer in Cuba, and who has been subjected to a great deal of this sort of thing.

Then, after referring to Mr. Baker's visit to Santiago, in October, 1899, he proceeded, as follows:

There he (Baker) met Mr. Runcie and discussed matters pretty freely with him. When Mr. Baker left, Mr. Runcie informs me, he requested a statement of Mr. Runcie's opinion, etc., upon the condition of affairs in Cuba. This, Mr. Runcie tells me, was sent him with the distinct understanding that it was under no circumstances to be published, either in whole or in part, but was simply for Mr. Baker's personal information.

On my return from a recent trip through the island the article was brought to my attention; this was about the 5th or 6th of February. I immediately wrote the Secretary of War on the subject (see letter of February 8, 1900, p. 149, Record), stating circumstance. Mr. Runcie came to me very frankly and stated his surprise and indigna-

tion at the article having been published, realizing all it would subject him to and the false position it would place him in. He has voluntarily severed his connection with all commissions and leaves for the United States as soon as he can close his affairs.

It is a painful and regrettable incident in which a man writing as frankly as he would speak has had his confidence abused and himself put in an entirely false position, which it is impossible to satisfactorily explain to anyone. He has felt, as I have, that many people would be unjust enough to assign as a motive his desire to assist me at the expense of General Brooke. There is absolutely nothing in any such statement. (Page 151, record.)

As soon as publication was made of Runcie's letter to Baker, dated November 26, 1899, authorizing the publication of his article over his name, if Mr. Baker thought that necessary (p. 152, record), and General Wood learned of the same, he wired the Secretary of War, under date of March 21, as follows:

Recall all said in Runcie case about abuse of confidence, etc. * * *

He followed this telegram with the letter of March 22, 1900, to the same general effect (p. 153, record), but on the preceding day, March 21, 1900, Major Runcie wrote General Wood the letter published at page 154 of the record; in which he undertakes to explain why his express written authority to Mr. Baker to publish his article over his name if he, Mr. Baker, should "think it necessary" was not what on its face it purported to be, but only an authority to Mr. Baker to disclose his, Runcie's, name, to the publisher of the article, whoever that might be.

It is not necessary to comment on this letter except to say that to any unbiased mind the explanation or defense which he thus undertakes to make does not sustain his contention, but leaves the authority of Mr. Baker given by Major Runcie's letter of November 26, 1899, unaffected.

In brief it seems clear that Major Runcie wrote the article in question, signed his name to it, and forwarded it to Mr. Baker, with authority to have it published, and if he, Mr. Baker, thought it necessary, to publish it over his name. The article as prepared and published bears evidence of this fact, aside from the specific instructions Runcie gave in his letter of transmittal to Baker.

The only question left is whether or not General Wood made a truthful statement to the President when he said in his letter of February 25, as above quoted, and to others on other occasions, that he had no knowledge of the letter prior to its publication.

There is some conflict in the testimony on this point, but very little. Major Runcie testifies that he and General Wood and Mr. Baker dined together immediately after Mr. Baker's arrival at Santiago, and that on that occasion such an article was talked about, and it was decided that Runcie should prepare it.

Mr. Baker and General Wood both say that no such article was talked about on that occasion or on any other occasion when all three were present, and that no agreement was made or even mentioned that Runcie was to prepare any such article for publication. (See Baker's letter, p. 144, record.)

Mr. Baker says that then and subsequent to that occasion, in conversations he had with Major Runcie alone, the general subject-matter of some article on conditions in Cuba was discussed, and that Major Runcie on one occasion "suggested himself that he would like to write the truth about conditions, etc." (p. 422), but that he did not expect him to do so, and was surprised when he received the article (p. 432, record). He further states that until he received the article he did not know, except in the most general way, what Major Runcie would write, if he saw fit to prepare such an article, and that he had no other relation to the article than to simply receive it, secure for Major Runcie, as a friendly service to him, a publication of it in the North American Review, and collect for Major Runcie, and send it to him, the sum of \$35 as payment for the article (p. 432, record).

Mr. Baker fully corroborates General Wood in all General Wood says as to the character of their conversation on the occasion when Major Runcie says the article was inspired (pp. 423-424-425-426, et seq.).

If, therefore, this were all the testimony there would be two witnesses, General Wood and Mr. Baker, both entirely credible, against Major Runcie, who is certainly discredited in the first place, by his claim that Mr. Baker published the article over his name in violation of his promise not to do so in view of the contradiction thereof by Major Runcie's letter of transmittal.

But Major Runcie admits on his cross-examination that he prepared his article while General Wood was absent from Santiago, and that he forwarded it to Mr. Baker without having ever shown it to General Wood, and without having ever told General Wood of the nature of it.

The only conversation that he claims to have had with General Wood in regard to the article before its publication, except when General Wood and Baker and he dined together, is stated at page 136 of the record, where he says that after he had written and sent off the article General Wood one day asked him whether he had ever written that article, and he told him he had. This is contradicted by General Wood's statement. But General Wood says (page 147, record) that after he prepared his letter "written after a full discussion with Runcie," etc., to the President, of February 25, 1900, he read it to Major Runcie, and asked him whether or not his statements were correct, and that Major Runcie

said they were. Major Runcie admits that he read him the letter, but says that he neither assented nor dissented to the same, although he knew that it was addressed to the President and that by allowing incorrect statements, if they were incorrect, to go uncontradicted and with the statement that he approved them, he would thereby be aiding to mislead and impose on the President.

For this reason, added to the fact that according to his own statement he was willing to attack General Brooke anonymously or through Mr. Baker, which was neither a manly nor a soldierly act, coupled with his denial of Baker's right to publish his article over his own name in plain contradiction of his letter to Baker, the committee were of the opinion that in so far as there was any conflict they should accept the statements of General Wood and Mr. Baker rather than those of Major Runcie. For these reasons, the committee concluded that the so-called Runcie article was prepared and published in the manner shown without knowledge or approval on the part of General Wood as to its character, and that he was not guilty of any misstatements or misrepresentation in connection therewith. (See General Wood's statement of the whole matter, with letters attached; p. 146 et. seq., record.)

The fifth charge is as follows:

5. I charge him with directing and causing the auditor of Cuba, by a military order, to violate the law in the treatment of accounts.

There is absolutely no testimony whatever to warrant the making of such a charge, and we dismiss the matter from further consideration with simply referring to the testimony of the Secretary of War in answer to this charge, at page 855, etc., record.

CAPTAIN BELLAIRS.

The sixth charge is as follows:

6. I charge him with utilizing the services of an ex-convict with whom he was in intimate personal association in an effort to displace his superior officer, and by such means to secure to himself the vacancy thus created.

This charge, in view of the testimony, seems to be only a spiteful and malicious declaration, made without excuse of any kind, in a spirit of revenge and wanton villification. It refers to Captain Bellairs, as he was known. He was the representative of the Associated Press at Santiago from September, 1898, until June, 1899, when he was transferred to Habana, where he continued as such representative until July 14, 1900, when he was sent by the Associated Press as its representative to China.

The testimony shows that General Wood had nothing whatever to do with his employment by the Associated Press, or with his assignment to duty at Santiago, or with his transfer from there to

Habana, or with his transfer from Habana to China, or with his continuance in the employment of the Associated Press at any time while he was in Cuba, or with any of his services or writings while so acting as its representative.

Mr. Diehl, assistant superintendent of the Associated Press, testifies, at page 479 of the record, how he came to know and to employ Bellairs; and, at page 487, that General Wood had nothing to do therewith or with any of his various assignments to duty.

It is the testimony of all the witnesses that, both at Santiago and at Habana, Bellairs was received in the best society; that he had the entrée to all the clubs, and that he was on terms of familiar acquaintance with all the Army and other officials, and that during his stay in Habana he occupied rooms in the same house with General Ludlow, who was then the civil governor of Habana; in short, that while during all this period he apparently enjoyed the confidence and friendship of General Wood, yet he also at the same time enjoyed the confidence and friendship of all the other officials with whom his duties, as the representative of the Associated Press, brought him in contact.

After he was sent to China rumors and stories began to circulate to the effect that he was an impostor: that he was guilty of immoral practices, and that he was an ex-convict who had served a term in the penitentiary of the State of Florida. It was thought by Mr. M. E. Stone, general manager of the Associated Press, and by Mr. Charles S. Diehl, assistant general manager, when they first appeared before the committee, that these stories were circulated and brought to their knowledge and to the knowledge of General Wood early in 1900, before Bellairs was transferred to China, and they so testified; but later Mr. Diehl reappeared and testified (at page 600, et seq., of the record) that they had examined their letter files and records and had learned therefrom that they were mistaken in regard to the dates they had given in that respect, and that they never heard anything derogatory of Bellairs until after he had been gone from Cuba to China some two or three months.

A Mr. Charles E. Fisher testified to the same general effect (p. 608 et seq. of the record), viz., that he had heard bad stories about Bellairs before he left Cuba, but was shown to have been mistaken by the testimony of Mr. J. O. La Fontisee, from whom he stated that he got his first information, who says (at p. 681-682 et seq. of the record) that it was in September when he first talked with Mr. Fisher on the subject, or two months or more after the transfer of Bellairs to China. Mr. La Fontisee testifies that he had lived in Florida for some years before he went to Cuba, and that he had heard the stories mentioned about Bellairs before Bellairs left Cuba,

and that he at one time—in June, 1900, he thinks—told General Wood about them (p. 683, record).

In view of the fact that General Wood states that he never heard of the stories until after Bellairs left Cuba, and in view of the further fact that, according to the testimony of everyone, Bellairs's social standing was unquestioned until he left there, and in view of the further fact that Mr. Stone and Mr. Diehl, both men of the highest intelligence, and both interested as responsible for the employment of Bellairs, found themselves mistaken and under necessity to correct their testimony as to dates and to admit that they had never heard anything to the prejudice of Bellairs until after they had sent him to China, and that until after they had sent him to China General Wood had never spoken to either of them in regard to Bellairs (p. 605), it is tolerably safe to assume that Mr. La Fontisee was mistaken as to his dates, as Stone, Diehl, and others were, and that neither he nor General Wood nor anybody else ever heard anything to the prejudice of Bellairs until after he was transferred to China, when all heard the stories that then became current.

So that in so far as General Wood may have "associated" with Bellairs while he was in Cuba, he did not associate with him with any knowledge that he was other than an honorable man worthy of the position he held, and as such entitled to all the courtesies and consideration shown him.

But whether this is true or not does not matter, since no proof has been offered—much less given—that General Wood ever "utilized the services" of Bellairs in any way, or to any extent whatever, on any account, or for any purpose, good, bad, or indifferent.

Not one line of the writings of Bellairs during the whole period of his stay in Cuba has been put in evidence, or called to the attention of the committee, and not an act of his of any kind has been testified about, and not a word spoken by him of any nature, whether kind or unkind, to General Wood or his superiors in office, has been testified about by any witness. It seems to have been thought sufficient by those opposing confirmation to support this charge to show that Bellairs was a man of previous bad character and that he was upon friendly relations with General Wood, as well as everybody else, while in Cuba, and that, when finally the truth came to light, General Wood was slow to believe—as all others appear to have been—that such an imposition had been practiced.

On this point Mr. Diehl says, at page 491 of the record:

I thought there was a great mistake made about this man; he had such excellent credentials in Key West, from either Henry Villard or his son, and also credentials from the British ministry and from the

Evening Post and the London Standard. In view of these credentials when they said he was a criminal I thought it was impossible.

There is no view of the testimony that makes it amount to more than this, and it might, with quite as much propriety, be said that Mr. Stone and Mr. Diehl—men of the highest capacity and best qualifications for their respective positions—should be held, in view of their responsibilities, unworthy to longer fill their places, because they suffered themselves to be imposed upon, as that General Wood is unworthy of promotion because, in common with everybody else, he was imposed upon by a man whom they held out, by virtue of the position they gave him, as worthy of credence and respect; a position that was rightly regarded in that case, as in all others, as a certificate of good character, such as would be deemed sufficient to disarm suspicion even if circumstances, short of positive proof, should arouse it; or that General Wood should be denied confirmation because while in Cuba, and before their frauds were discovered, he maintained friendly relations with Neely, Reeves, Rathbone, and others.

THE CASTANEDA CONCESSION .

An effort was also made to show that General Wood had improperly, if not corruptly, granted what is spoken of in the Record as the Castaneda concession. This is completely explained and refuted by Secretary Root in his testimony at page 800 et seq. of the Record, where he states as follows:

Senator TELLER. Mr. Secretary, there has been a good deal of newspaper talk about what is called the Castaneda concession. What do you say about that; was that grant under the direction of the Department?

Secretary ROOT. No; there were two Castaneda concessions.

Senator TELLER. Granted by General Wood?

Secretary Root. Neither of them. One was a concession granted after the signing of the protocol just before the American occupation, and belonged to a class of concessions that we were not supposed to be friendly to. We felt that there had been a lot of concessions given by some Spanish officers just before they went away that they had no right to give. That concession was condemned by General Wood. He declared it invalid. In some form I think the order is in your record, that there was a concession similar in character to this gas business, lighting business, which was granted in 1894. Regarding that, General Wood made an order which was in a form prepared here and sent to Cuba with instructions to make it in all similar cases. I do not want to bore you or take up the record, but to be intelligible I will have to explain it.

There was a serious difficulty about the acts of the military governor, arising from the fact that he had legislative and judicial and executive powers, and an attempt by him to regulate the exercise of a franchise or concession might well be deemed to confer a franchise or concession;

that is, while he was trying to act as a street commissioner to regulate a gas company in the exercise of a franchise, the permit that he gave might be construed as being a legislative act which conferred a franchise. The question came up in a case relative to the canalization of the Matadaires Creek, a creek running in near the harbor of Habana, and there was a great deal of trouble and discussion about that, and finally we prepared a direction giving the precise form that General Wood was to use, directing that when he considered a concession was in violation of the rights of the United States he was to say that the United States objected to it, and declare it void for that reason. When he found that a concession was not in violation of the rights of the United States—that is to say, like this made back in 1894—he was not to say it is a good concession, but he was to say the United States did not object to it, and the question whether it was good under the laws of Spain was to be determined in the courts. Now, General Wood made an order of that kind regarding the 1894 Castaneda concession.

Senator TELLER. What did he say—the Government has not any objection to it?

Secretary Root. Yes. You have it in your record there.

Senator FORAKER. It is all in the record.

Secretary Root. He followed exactly the form he had been instructed to follow in such cases; that is, the 1898 concession, the one made after the protocol, he objected to as a matter of public policy of the United States. The 1894 concession, made when Spain had its full rights, he said, we have no objection to, but the question of whether it is in conformity to the laws of Spain is, however, to be left to the courts. Subsequently the Castaneda people, or whoever owned the concession, being about to exercise their rights under the concession, applied for liberty to do it, and the local authorities prescribed a set of rules, regulations, for the exercise of this right, describing how the wires should be laid. I think they required them to be put underground instead of overhead, or something of that kind. General Wood approved of those regulations—quite a proper thing if he had been merely commissioner of public works or a street commissioner. Upon his doing that the existing company which was lighting the streets—the Spanish-American Light and Power Company, or some such title—came to me and said, "This permit here is in such form that it not only regulates the exercise of the rights previously existing but it amounts to conferring a new right, and will cut us off from testing preexisting rights in the courts, as we intend to do;" and accordingly I ordered General Wood to revoke his approval of those regulations, reinstating the original order, and he did so.

Senator TELLER. Was his order that he made by direction of you or—

Secretary Root. The original order was by direction from me. This second one was not, and I directed him to revoke it.

Senator TELLER. And it was revoked?

Secretary Root. It was revoked.

Senator TELLER. Was anything done subsequent to that?

Secretary Root. No.

Senator FORAKER. Now, the effect of all that is, as I understand this record and your testimony, that in 1894 a franchise was granted—

Senator TELLER. I think the Secretary has made it very plain.

Senator FORAKER. I want to see if I understand it, if you have no objection.

Secretary ROOT. Very well.

Senator FORAKER (continuing). Which General Wood found, under your instructions, to be one that the United States did not object to?

Secretary ROOT. Yes.

Senator FORAKER. Thereupon the owners of that franchise applied to the municipal authorities for a permit to go upon the streets and string their wires?

Secretary ROOT. Yes.

Senator FORAKER. And the local authorities, conceding their right to use wires, adopted a code of regulations which prescribed they should, instead of going overhead, go underground?

Secretary ROOT. Yes.

Senator FORAKER. And that General Wood approved?

Secretary ROOT. Yes.

Senator FORAKER. And it was that that you revoked; but you left the right of the franchise, granted in 1894, to be tested in the courts, as General Wood had originally ordered?

Secretary ROOT. Yes, sir.

Senator FORAKER. General Wood made his order approving those regulations, if I understand this record, upon the advice of the secretary of justice and his legal advisers in Habana?

Secretary ROOT. He did.

Senator FORAKER. That it was nothing more than a restriction as to the mode of use of the streets under a franchise which had been found to have been granted prior to our occupation?

Secretary ROOT. Yes; I think I ought to show perhaps that the distinction is a pretty fine one, and it is not at all surprising that anyone who has not been pretty familiar with street railway and gas company laws should not appreciate it.

Senator FORAKER. Yes; the question was one about which lawyers might very well differ.

Secretary ROOT. And they do.

Senator FORAKER. They do—yes.

Secretary ROOT. My opinion about it was pretty clear.

Senator FORAKER. They are remitted to the courts in the order General Wood made, as to the validity of the franchise under which they were operating?

Secretary ROOT. Yes.

Senator FORAKER. That is enough on that, I suppose.

In addition to the foregoing statement by the Secretary of War, we call attention to pages 533-589 of the record, where will be found a formal statement from the Secretary of War in regard to the so-called Castaneda concessions, with all the correspondence, opinions, and official documents relating thereto attached.

CHARGES OF MR. A. E. FRYE.

In addition to all the foregoing, it was testified by Mr. A. E. Frye, who for a time acted as superintendent of schools in the island of Cuba, that he was appointed to that position by General Brooke in 1899; that

he prepared a general school law, creating and regulating a school system, providing for the employment of teachers, fixing their salaries, etc., which was promulgated by General Brooke in December, 1899, a few days before General Wood became military governor of the island; that according to his law teachers were paid salaries ranging from \$75 per month down to \$50 per month, and in some cases less salaries, according to the number of pupils a teacher might have; that in the summer of 1900 he made arrangements for the instruction of Cuban teachers, who might desire to take advantage of such an opportunity, at Harvard University, Cambridge, Mass.; that just before he left with these teachers for Cambridge he learned that General Wood was having a new school law prepared, which he was intending at an early date to promulgate as a substitute for the Frye law, and that by the law which General Wood was intending thus to put into force the salaries of teachers were to be reduced; that he appealed to General Wood not to put such a law into effect; that notwithstanding his appeal, while he was at Cambridge with his Cuban school teachers, the newspapers announced that the Wood law had been officially promulgated; that in consequence there was great disappointment and general bad feeling among the teachers; that this occurred in the latter part of July, 1900; that at this time General Wood returned from Cuba to the United States, and, learning of the disappointment and irritation occasioned by the promulgation of his law, wired Mr. Frye at Harvard University as follows:

NEW YORK, July 24, 1900.

Mr. FRYE,

Harvard University, Cambridge, Mass.:

Inform teachers no cut in salary. Error in print.

L. WOOD.

(Page 704 of the record.)

That the following day General Wood came to Cambridge, and in an address to the Cuban teachers, in the presence of Mr. Frye, President Eliot, of Harvard University, and others, made statements which were in part stenographically reported and put in evidence by Mr. Frye, to the effect that there would be no reduction of salaries; that the printing of the new law in the official gazette was a mistake or an error of some kind, and that he had telegraphed immediately on his arrival at New York in regard to it; that the teachers could be reassured, etc., page 706 et seq. of the record; all of which Mr. Frye testified was false; that, in short, General Wood deliberately misrepresented to the Cuban teachers in his remarks to them at Cambridge what had been done by him with respect to a new law, and with respect to changes in their salaries, and in other

important respects. Mr. Frye complained in his testimony of General Wood in other particulars, charging him with improperly interfering with his duties as superintendent, to the prejudice of the schools, etc.

It was developed on his cross-examination that Mr. Frye had written the following letter to Secretary Root, found at page 746 of the record, which would seem to fully exonerate General Wood as to all his charges down to that date.

HABANA, September 26, 1900.

DEAR MR. ROOT: Nearly two months ago I spoke with you about my work in Cuba. The time had come when I felt that this work must end. As I owe my position here to your own kind words written to General Brooke, it seemed to be my duty to speak with you before placing my resignation in the hands of the military governor.

I told you I felt that the writing of a new school law for Cuba during my absence in the United States showed loss of confidence in me, and that of course without the confidence of General Wood I could not do my work. Knowing my motive in the work here, I felt hurt when that motive seemed to be doubted and when it seemed as if I were no longer trusted. I could not then resign, because I had begun to organize the Harvard excursion, and that must go forward. My mind dwelt with bitter thought upon the seeming wrong, and I spoke harsh words of General Wood, not seeing that the greatest wrong of all was my own lack of frankness in not going to him for a manly talk. But weary months of doubt had tinged every thought, for it seemed as if the work so dear to my heart must end.

The whole trouble had begun over a slight thing that a few moments of frank talk would have cleared away, but I did not see it. Thus it went on growing and harsh words were spoken, with the effect, of course, of making matters worse. In this I did wrong; whatever the cause, those words ought never to have been spoken.

Last Monday I went to General Wood with my written resignation in my pocket. I did not go in anger, nor in a spirit of reproach. The truth had dawned upon me that a slight cause that a few frank words would have removed had grown because of my own bitter words, and that these were the very cause of the growing distrust that I resented so keenly. The moment I saw the truth I saw also my duty, namely, to go to General Wood and tell him frankly how I had felt, with the cause of the feeling, and repeat to him as nearly as possible the very words I had spoken; then to lay down my work and go back to my little home in California. There was not the slightest thought of any other outcome. There was no reservation. I wished for him to know at least that I had done this last duty fully myself.

But as we talked frankly I began to see things in another light. I hope that General Wood did also. It was not the governor who was speaking, but the man. It was not the voice of one trying to crush out my work, but of one searching for light while bearing a heavy burden in the dark. Never before had I felt such a strong desire to help lift a burden. My schools, the teachers I love, the plans of weary hours, my motives, all passed before my mind. Could it be possible that such a work must stop because two men had misunderstood each

other and had drifted apart? How small the first cause seemed, but how far we had drifted.

It was beyond doubt the happiest moment of my life when General Wood said: "No, I do not want you to resign; the past is behind us, and we will never recall it. From this moment there is confidence, and we will work together for the good of the schools." A single hour had cured the ill of half a year.

When I went to the palace my only thought was for the faithful teachers who have learned to trust me and who will go where I lead. The very thought of this confidence almost broke my heart, as I realized the long, bitter struggle through which I had at first passed in Cuba, and how hard I had worked to win the trust of the people—and now after all it could not be used for Cuba's good. I had set down for the task of the first year the winning of the trust of this little nation, well knowing that with such a lever—and with no other—the nation could be uplifted. But now all seemed to go for naught.

But when I came from the palace I was doubly glad of the confidence of the Cubans. Not only could this be made a means of uplifting the schools, but I could place back of General Wood an army of bright, intelligent teachers scattered through every city, town, and village of the island. In these troubled political days, this means much. I could only turn this trust of the teachers where I myself trusted, and that is all I can do now; but I am trusting now where I did not then, and the effect will soon be felt in nearly every home in Cuba.

Thanks, then, to General Wood's manly and generous attitude, I shall go forward with the work doubly strong now in his confidence.

Pardon this long letter, when I know you are so busy; but it was your first kind letter that gave me this chance to work with the Cubans. It has been your support that has given to Cuba the great voyage of enlightenment. Knowing of your deep interest in the school work of this little country, I thought you would be glad to learn that this work was not to be broken or changed at this time. Moreover, I had a duty to perform toward General Wood in telling you that I was wrong in my judgment of him. With all my heart I can now stand back of him and give every ounce of my strength in his support.

Sincerely, yours,

I have written President Eliot to the same effect.

Mr. Frye testifies that after this letter he continued in Cuba in the position he held until December, 1900, at which time he applied for a leave of absence, and during the time covered by the same tendered his resignation, which was accepted. He further testifies that the letter which he wrote to the Secretary of War, speaking of the same, "does not excuse him (Wood) for any lies he told or anything else." (Bottom of p. 747, record.) And that subsequent to the law General Wood misled him and made misrepresentations to him, and trifled with him until it became impossible for him to render efficient services, and that it was in consequence of this unfortunate condition of things that he resigned in the manner stated.

Mr. Frye's testimony shows on its face that he is an emotional, excitable, and unreliable witness, and that his charges and the inferences drawn by him from the statements and actions of General Wood were not only not justified, but absurd and ridiculous. All that is stated by him is so completely answered by Secretary Root, who was entirely familiar with that trouble, as he appears to have been with every other occurring in Cuba during his administration of the War Office, that his testimony on that point is inserted in full, as a complete and sufficient answer to all Mr. Frye has said.

Senator FORAKER. * * * We had the superintendent of education of Cuba, Mr. Frye, on the stand yesterday. I do not know whether you have seen his testimony or not. He arraigned General Wood for having promulgated on the 30th day of June, 1900, a new school law, if I may speak of it in that way, and said with respect to that law that it made changes in the prior law, among other things reducing the salaries allowed to teachers, and that General Wood immediately afterwards came up to Cambridge, Mass., where Mr. Frye was with a lot of Cuban teachers, taking some instruction there, and General Wood stated certain things there with respect to this law which were not true, and among others—I am not trying to quote the exact language—he said that General Wood said that that law was not in effect, whereas Mr. Frye said that the truth was that the law was in effect. Will you tell us about that law? I do not want to extend my question unnecessarily, but I have aimed to state just enough to direct your attention to the point.

Secretary Root. Well, it is a fact that a new school law for Cuba was published under the date of June 30 in the Official Gazette.

Senator FORAKER. 1900?

Secretary Root. 1900. I think it was not published for some little time after that. It was dated June 30. At the time—well down toward the middle of July—it was in fact published, but it was dated June 30. That law provided for a reduction of salaries. The salaries under the existing school law which had been promulgated on the 6th of December, 1899, and had been drawn by Mr. Frye, as I understand, fixed the salaries at \$65 in Habana.

Senator FORAKER. Seventy-five dollars, Mr. Frye said.

Secretary Root. Yes; \$75 in Habana; \$60 in the capitals of provinces and one or two places specified, Cienfuegos, and I have forgotten what others; \$50 for complete schools in other places, and \$30 for incomplete schools—that is, a small number. The law dated June 30 reduced the salaries of \$75 to \$65 in Habana, and those of \$60 to \$50 in the capitals of provinces and specified places, and those of \$50 to \$40 in the ordinary places, and left the \$30 salaries for incompletely schools the same. On the 24th of July I got a telegram from General Wood from New York saying:

Elihu Root, Secretary of War, Washington, D. C. No changes in teachers' salaries intended at present. Gazette order will be corrected in that particular.

The same day I got a telegram from him dated Boston, Mass., July 24, 1900, as follows:

Elihu Root, Secretary of War, Washington, D. C. Have straightened out all misunderstandings about teachers. Nothing done to in any way change their status or pay.

I understood that the law of June 30 had been determined upon and signed and that General Wood had come to the conclusion to make some changes in it and had not intended to have it published, but that it was published by mistake. I think you will find in Mr. Frye's testimony, in his quotations from General Wood's remarks at Cambridge, that he says substantially that. He says:

I do not know how the order was published in the Gazette—probably the incorrect order went in.

He says:

I telegraphed yesterday—I telegraphed immediately about it. The teachers here can therefore feel that there is going to be no change.

As a matter of fact, immediately upon General Wood's return to Havana, which was a few days after this—

Senator FORAKER. He sailed July 28.

Secretary Root (continuing). Yes, this telegram was the 24th: he was at Harvard on the 25th and he sailed on the 28th, and on the 1st of August the law was changed and was republished in the Gazette as school law No. 368, Havana, August 1, 1900. That in section 76 contains the same salaries which were contained in the law of December 6, 1899. That is to say, it did just what General Wood said he had already telegraphed to have done, and what he would do.

Senator SCOTT. Let me call your attention to Mr. Frye's testimony on page 697:

If the Cuban teachers away in the United States found that their salaries had been cut, and that the board of education, by whom they had been elected, had been removed, I knew that there would be a panic here, and it turned out exactly as I predicted. But General Wood assured me in the most emphatic terms before the sailing of the steamer that the teachers' salaries would be reduced.

Secretary Root. Yes; he undoubtedly intended to reduce them.

Senator SCOTT. The next is:

Q. That they would be?—A. Yes, sir; that they would be reduced; that that matter had been presented to him in the new law, and he had approved it; that the salaries would be cut.

Secretary Root. Yes.

Senator SCOTT. Then Mr. Frye introduced on the next page that telegram.

Secretary Root. Yes; in which he says:

Inform teachers no cut in salary. Error in print.

Senator SCOTT. Yes, sir.

Secretary Root. I suppose that that was an error in the printing; that he did not intend to have that law of June 30 printed. That is what I understood to be the fact.

Senator SCOTT. How do you put that all together, Mr. Secretary?

Senator TELLER. I can not understand it that way, Mr. Secretary.

Senator SCOTT. How do you reconcile the two statements? He said they would be cut, and then the telegram said:

Inform teachers no cut in salary.

Secretary Root. That is after he got up here.

Senator SCOTT (reading): "Error in print."

Senator QUARLES. He changed his mind.

Secretary Root. Yes.

Senator SCOTT. But, "Error in print?"

Secretary Root. When that act of June 30 was framed he undoubtedly intended to cut down the salaries.

Senator FORAKER. At that time?

Secretary Root. Yes, sir. After that he changed his mind and decided to leave them as they were. But this is to be said about that, that the salaries of teachers under that existing law can be increased, but can not be decreased during their term of office, and these teachers were employed by the year, so that their salaries would not be affected until after the expiration of that year's term.

Senator FORAKER. Yes.

Secretary Root. But still it seems to me quite simple. He intended to make a cut, and Mr. Frye went to him and fussed, and he did not yield to him then, but he subsequently changed his mind.

Senator SCOTT. Do you know Mr. Frye personally?

Secretary Root. Yes.

Senator SCOTT. Is he a man of truth and veracity?

Secretary Root. Mr. Frye is a man with some very admirable qualities, and I do not think he would intentionally tell an untruth. He is an exceedingly emotional man, as you can see in the letter that he wrote to me which you have in evidence here, and he is capable of being completely carried away by a prepossession and thinking that everything is almost divine about somebody to whom his affections go and that everything is devilish on the part of some one against whom he has a prejudice. The extreme tone of his statements against General Wood at one time, and then in his favor in that letter to me, and then again on the other side here, would seem to indicate that.

Senator SCOTT. As I understood him on the stand here, he offered, if we would receive them, to furnish us documentary evidence to prove all the statements that he made.

Secretary Root. I don't know—

Senator SCOTT. He would not offer any documentary evidence, I presume, that he at least did not think—

Senator QUARLES. He did not offer any.

Senator SCOTT. He had all those papers here, but it was said that it was not necessary to put them in, and we did not accept them; they were so voluminous.

Senator FORAKER. He made this statement, that the law of June 30 had been promulgated before General Wood came to Cambridge, and made these remarks from which you have quoted.

Senator SCOTT. What page is that?

Senator FORAKER. I have not found it, but it is there.

Senator SCOTT. I thought maybe you were reading.

Senator FORAKER. What General Wood said about not reducing those salaries; and that that law was then in effect, and he said that it had been in effect every minute since.

Senator QUARLES. That is what he said.

Senator FORAKER. It is in this record.

Secretary Root. I do not believe that he meant to tell an untruth, but that certainly is not true.

Senator SCOTT. Did he not say that he made a statement that the salaries would not be cut, when the law was in force and effect that did cut the salaries of the teachers?

Senator FORAKER. He did make that statement, and I understand

the Secretary to say that it was not in effect and that General Wood promulgated another law which did not cut the salaries.

Senator TELLER. This was July 25, when he was here.

Senator FORAKER. Yes.

Senator TELLER. He had not promulgated it then.

Senator FORAKER. Yes; but he asserted that the old law, which would go into effect June 30, should not go into effect. He said that it was a mistake when it was printed, and he changed his mind.

Senator TELLER. You have not any evidence that the law had been changed?

Senator FORAKER. The Secretary has just stated that he telegraphed him that there would be no change.

Senator TELLER. That is after that?

Senator FORAKER. On the 24th he sent that telegram to the Secretary of War.

Secretary Root. On the 24th he telegraphed:

No change in teachers' salaries intended at present. Gazette order will be corrected in that particular.

I assume that he had corrected it when he made this statement on the 25th. The only thing that I observed in Mr. Frye's testimony was this about the salaries. It did not seem to have much substance. In view of the fact which Mr. Frye, I am bound to say, did not have the frankness to state to the committee, is the fact of this new law, of this change on the 1st of August.

Senator FORAKER. He did not exhibit that to the committee, and he left the committee under the impression that there was no such law as that. His statement was explicit that the law of June 30, as we call it for the sake of identification, had gone into effect.

Senator QUARLES. And that it had continued in effect.

Senator FORAKER. And that it has continued in effect ever since.

Senator SCOTT. I think that we ought to be a little lenient with Mr. Frye. We did not give him a chance to put in his documentary evidence. He had such a pile of it, and it was rather distasteful to us to stay, and he offered to put that in and we did not want it, so that we really do not know what was in it.

Senator FORAKER. He did not offer to put in the law of August 1, and he certainly knew of such a law.

Senator TELLER. Who did?

Senator FORAKER. Mr. Frye.

Senator TELLER. There is no reason to suppose that he knew on July 25—

Senator FORAKER. But he certainly knew when he was before this committee. He knew that the law was promulgated.

Senator TELLER. That has nothing to do with it. His charge against General Wood is simply a falsehood. That is all there is to it.

Senator FORAKER. Yes; but he says that law was at that time in force and effect.

Senator SCOTT. On page 710 I thought that I would make him come to the point, and his testimony was as follows:

By Senator SCOTT:

Q. Then, as I understand it, you testify to three facts—that you do not believe in his honesty or his truthfulness or his ability as an officer. Is that it?—A. Yes, sir. I have only presented a very small part of what I want to present—

Senator FORAKER. But he kept on presenting things.

Senator SCOTT. That is his testimony at page 710.

Secretary Root. I do not believe that we can deal with anything but what he did present. He did present the law of June 30, which before the 25th—before General Wood was at Harvard, as I understand it—he had already suspended from operation. At all events he had telegraphed me so.

Senator FORAKER. Yes.

Secretary Root. And as to that, also, on the 1st of August the new law superseded it. He also makes one other point that I see in his testimony against General Wood, which is that General Wood had said that the teachers should retain their places and not be turned out, and he complains that the teachers were turned out.

Senator TELLER. He explained a little more than that. General Wood said:

This law does not really go into effect in its details until the election next year.

Mr. Frye said that the law at that moment was in effect in all of its clauses at that time, although General Wood said that it did not go into effect until next year.

Senator FORAKER. Where do you read from?

Senator TELLER. From page 701. Now, it seems to me if General Wood had already modified that law he would have stated to Mr. Frye, or to the audience when he made this speech, that the law had been made, but they had wanted to change it and go back to the old law.

Senator FORAKER. It is possible that he did make that statement for aught that appears here, for Mr. Frye said that he reported only in part the remarks that General Wood made.

Senator TELLER. I think if you will read what he said on page 701 you will see that he did not do that. Of course you can not tell; it is not all here.

Secretary Root. It is quite evident that the law that had been published was referred to, because Mr. Frye, at the end of page 700, says that General Wood said:

I do not know how the order was published in the Gazette—probably the incorrect order went in.

It is quite evident that the fact of the publication was known and discussed. Then General Wood goes on to say:

I telegraphed yesterday—I telegraphed immediately about it.

Senator TELLER. He says that to you?

Secretary Root. No, no; he said it at Harvard.

Senator TELLER. Oh!

Secretary Root. This is Mr. Frye's testimony as to what General Wood said to them at Harvard.

Senator FORAKER. (Reading:)

I telegraphed yesterday—I telegraphed immediately about it.

Secretary Root. That is the same day that he telegraphed me?

Senator QUARLES. Yes.

Secretary Root. So that it seems that General Wood had suspended the operation of that act of June 30, which reduced the salaries, before he spoke at Harvard, and when he went back he republished the law with those changes.

Senator FORAKER. Yes; on the 1st of August. He says:

The teachers here can therefore feel that there is going to be no change. The examination will not take place till after December 1. Those who have been here will probably be taken right on the record that they have made here. The one or two objectionable clauses in the school law which they do not understand they need not have any anxiety about.

And he says at other places in his remarks that all will be put upon examination in December, and there will be no changes until then except for cause; and under the law of June 30, as promulgated, according to section 76 there could not be any reduction for the year for which the teacher had his appointment.

Secretary Root. You will find a number of provisions in the law which could not take effect immediately—prospective provisions—provisions relating to what the new board was to do in the future.

Senator SCOTT. Would it not be well for us to go to the 1898 accounts? It is getting so late, and we want you to tell us what you can say about those.

Secretary Root. Yes; there is one other. Mr. Frye claimed that General Wood did not tell the truth because he said the teachers would not be removed, and they were removed. As a matter of fact they were removed and it was because it was found that there were very gross abuses—that there were schools where teachers were being paid where they had practically no scholars at all. There were places where mulatto women had schools who were the mistresses of the mayors of the towns, and there were cases where the teachers had to receipt for their pay by making their mark, and there were schools where the teachers were of notoriously bad character; and a very bad state of things was developed. Mr. Frye, who wrote me that letter in September that you have, after a full explanation with General Wood, saying that General Wood was right and that he had been wrong, turned back to the idea that General Wood was wrong and a bad man merely because—only after he had been superseded—because while Mr. Frye I believe to be an honest man and a good man, he certainly was not a good administrator, and he did not conduct the business of the educational department in Cuba in a way that it was possible to continue.

Senator SCOTT. Did you say that he was relieved? I thought he testified that he tendered his resignation.

Senator TELLER. He said that he resigned.

Senator SCOTT. That is what I thought.

Senator FORAKER. He said that he asked for a leave of absence and before that expired he tendered his resignation.

Senator TELLER. On page 737 he says that he tendered his resignation.

Senator FORAKER. But he said that he determined to get out of there; that he was convinced that General Wood did not intend to keep certain promises made to him at the time of the Secretary of War's letter of the 24th of September, I think it was, as to changes in the school law; that by that law he was little more than a figurehead and had no control of his department.

Secretary Root. I do not remember how he got out, technically. I know that we determined that we would have to get rid of Frye.

Senator FORAKER. Was what General Wood did in that behalf known to the War Department and approved by it?

Secretary Root. It was.

Senator FORAKER. That is all.

The CHAIRMAN. Anything further on that?

Senator FORAKER. No, sir.

CONDIT-SMITH CONTRACTS.

It is shown that Mr. Condit-Smith, a brother-in-law of General Wood, was engaged in Cuba, during the time General Wood was military governor, as a contractor bidding for and—when successful—doing public work; and it is insinuated rather than charged that, through the influence of General Wood, he was favored with the award of contracts at extravagant prices, to the prejudice of the public interest and in derogation of the rights of other bidders.

There is no testimony whatever to support the charge or insinuation. On the contrary, so far as any favor being shown is concerned, just the opposite is established by the evidence. This is shown by—

1. Statement of General Wood, at page 66 of the record:

Please send for First Lieut. William J. Barden, Corps of Engineers, now stationed either at Washington Barracks or at Chattanooga, Tenn. This officer was engineer officer of the city of Habana, and as such was the only officer in Cuba who had any dealings with my brothers-in-law. He will tell you what my instructions to him concerning them were. I can tell you that they were to this effect: "That I was embarrassed by their presence there, but could not help it; and that I wanted him to see to it that if they came before him as bidders on contracts for work, that he exercise particular care to see that there was nothing whatever assigned to them when it could with equal propriety be given to another bidder, etc. They felt that their connection injured rather than helped them, and they practically failed in business."

2. By the following extract from the testimony of Capt. W. J. Barden, found at pages 108-109 of the record:

Q. What were your duties as chief engineer with respect to public contracts?—A. I had the making of all contracts that referred to the street work or the waterworks, the sewerage system, and a large part of the public buildings.

Q. When contracts were let for the construction of public buildings or the doing of other public work, did you have any special duty in connection with it?—A. For those works which were under my charge, and which were the only works with which I had anything to do with the contracts, I prepared the specifications and advertised the work and received the bids, and recommended the acceptance of the bid which I thought most advantageous to the Government, and after that recommendation was acted upon by the military governor I drew up the contract and signed the contract, which was also approved by the military governor.

Q. Did you know, during that time of service, of a Mr. Condit-Smith?—A. Yes, sir.

Q. (Continuing.) Who is said to be a brother-in-law of General Wood?—A. Yes, sir.

Q. In what capacity was he there?—A. He was there as a member of a company known as the Cuban Supply Company, the main business of which was the supplying of stone for use on the roads. I think they did some other business, but that was the only line in which I had any connection with the company.

Q. It has been testified before this committee, as I remember, that he represented a quarry company and also a construction company, and that the quarry company which he represented had some contracts for furnishing stone, and that the construction company he represented had some contracts for the construction of public buildings. What do you know about that?—A. The construction company had no contracts under me; the quarry company had some contracts.

Q. If they had any construction contracts as to public buildings, from whom would they get those contracts? Would not that come under your supervision, I mean?—A. Well, ordinarily it would have done so. I do not know where they had any contracts for any building.

Q. However that may be, please state whether or not you received any instructions from the military governor, General Wood, with respect to bids made by them for public work; and if so, state what they were.—A. The General told me once or twice when I was called over to his office that Mr. Condit-Smith was down there; that he was his brother-in-law, and that he was there very much against his (General Wood's) wishes, as it placed him in a very embarrassing situation. He told me that he expected Mr. Condit-Smith would be treated just exactly as anybody else would be treated; that no favors of any kind should be shown him; and no favors were shown him.

Q. Was that conversation with you in the nature of instructions from the military governor to you?—A. I considered them as instructions; yes, sir.

Q. State whether or not any favors were shown Mr. Condit-Smith or his associates whom he represented in connection with public work of any kind in Cuba.—A. No favors were shown him.

Q. None?—A. None.

Senator FORAKER. That is all I care to ask.

SANTIAGO ACCOUNTS OF 1898.

As to the charge that General Wood's accounts for the year 1898, while he was in command at Santiago, were in a state of discreditable confusion, the Secretary of War makes complete answer at page 811 of the record, showing that his accounts were audited not only at Santiago but also by the Insular Bureau, and afterwards by the regular accountants of the War Department, and that they were found to be correct to the last dollar, except that the Government was indebted to General Wood in the sum of \$6.64.

In so far as there were any difficulties in auditing those accounts, aside from those which would naturally arise on account of the campaign and the general situation at Santiago in connection therewith, they were confined to the accounts of other officers, and had no relation whatever to General Wood's accounts. Those accounts, and all others for which he had at any time been responsible, are beyond criticism.

INSUBORDINATION.

With respect to the insinuation—rather than charge—that General Wood was guilty of insubordination, or, as one witness expressed it, conduct “verging very closely upon it,” that also is best answered by the records of the War Department, and those records are put in evidence, with accompanying remarks by the Secretary of War, commencing at the bottom of page 812 of the record. They show there is no ground for such a charge, and that General Wood was fully sustained by the War Department and the President as to all points of difference between him and General Brooke.

ADMISSION OF SILVER-SERVICE SET FREE OF DUTY.

In like manner is the charge that he was guilty of a violation of the law in his own interest by admitting a silver-service set that was presented to him by the Jai Alai Society on the occasion of his leaving Cuba, free of duty, answered, not only by the Secretary of War in his testimony at page 794 of the record, but also by Gen. Tasker H. Bliss, who testifies, at page 115 of the record, that General Wood had no responsibility whatever for what was done in that respect, and that, on the contrary, he alone was responsible for the same; his statement being as follows:

It was admitted free of duty, but I take all responsibility for that upon myself. I never heard a word from General Wood on the subject.

General Bliss further testified that General Wood did not give any order, or make any request with respect thereto, or, so far as he is aware, have any knowledge at the time as to the admission of the silver service free of duty (see also his testimony to the same effect when he was recalled, p. 590 et seq. of the record), and that the law authorized such admission.

Before passing from this branch of the investigation, it is due to the claims of truth and justice, as well as to General Wood, to say that the testimony utterly fails to establish anything either charged or insinuated that reflects on the character or conduct of General Wood as either a man or an officer. On the contrary, the testimony is overwhelming that his character and conduct as a man were above reproach, and that the many charges which the committee have been called upon to investigate were all inspired and made by a man who pretends to believe that he was wrongfully charged with crimes and tried and convicted of them only because General Wood desired to do him a great wrong, and in that behalf improperly controlled and directed the proceedings and judgments of the courts against him.

The testimony taken altogether and fairly considered utterly fails to support such a contention.

On the contrary, it shows that General Wood only did his duty—energetically and thoroughly, it is true, as he seems to have performed all his duties, but without malice, oppression, or unfair or improper use of authority or influence with the courts or otherwise, and that instead of criticism and fault-finding he is entitled to credit and commendation.

RECORD AS A SOLDIER.

As a soldier and an officer the record he has made speaks with more authority and conclusiveness than any other witness can.

This record and the reasons governing the President in making this nomination can not be set forth better or more concisely than has been done by the Secretary of War in his letter to the acting chairman of the Committee on Military Affairs, which, with all exhibits, is printed in the record at page 23, as follows:

WAR DEPARTMENT,
Washington, November 18, 1903.

MY DEAR SENATOR: In compliance with your request, I transmit a résumé of the military record of Gen. Leonard Wood, and a statement of the chief considerations which have led to his nomination as major-general.

This officer has been five times confirmed by the Senate upon appointments by President McKinley as a general officer; twice as brigadier-general of volunteers, twice as major-general of volunteers, and once as brigadier-general of the Regular Army. Your committee is therefore probably familiar with most of the facts in this record. It covers a period of seventeen years' service and naturally divides itself into four distinct parts.

First. His service as a line officer in command of troops, although serving under a commission in the medical staff during the Indian wars. Upon this service his superior officers have made the following remarks:

General Miles:

"This officer served in the field under my command for several months during the terrible campaign against the Apache Indians under Geronimo. He is one of the most enterprising, intelligent, and fearless officers in the service, and competent to fulfill the duties of a field officer."

General Lawton:

"When through exposure and fatigue the infantry battalion lost its last officer (in the pursuit of Geronimo) Captain Wood volunteered to command it in addition to his duties as surgeon. In this duty Captain Wood distinguished himself most. His courage, endurance, and example made success possible. I served through the war of the rebellion and in many battles, but in no instance do I remember such devotion to duty or such an example of courage and perseverance. It was mainly due to Captain Wood's loyalty and resolution that the expedition was successful."

Gen. Wm. M. Graham:

"With a high sense of honor in all the obligations of life, he is a

most conscientious and zealous officer in the discharge of duty. His physique is superb; his mental qualifications are of the highest order."

Gen. George A. Forsyth:

"Captain Wood served with me on the frontier in Arizona and New Mexico a number of years ago. I have known him well for the past ten years and I regard him as one of the very best soldiers I know. * * * He has all the sound judgment, good sense, executive ability, experience, and courage requisite to make him one of the best and safest colonels in the Army."

Upon these and similar evidence of fitness, President McKinley appointed Captain Wood colonel of the First Volunteer Cavalry in May, 1898.

Second. In the Santiago campaign Colonel Wood's service appeared to justify his appointment. He commanded his regiment at Las Guasimas on the 24th of June, 1898, and his brigade commander, General Young, reported of him:

"I can not speak too highly of the efficient manner in which Colonel Wood handled his regiment and his magnificent behavior on the field."

His division commander, General Wheeler, reported:

"The magnificent and brave work done by this regiment, under the lead of Colonel Wood, testifies to his courage and skill. The energy and determination of this officer has been marked from the moment he reported to me at Tampa, Fla., but I have abundant evidence of his brave and good conduct on the field, and I recommend him for the consideration of the Government."

He commanded a brigade in the San Juan fight, and his division commander reported of him:

"Too much credit can not be given to the gallant brigade commanders, Colonels Wood," etc.

The corps commander, General Shafter, reported:

"The following officers were conspicuous for their bravery and handled their troops so well I desire to recommend them for promotion: * * * Colonel Wood, to be a brigadier-general."

The third period covers the command of the troops in occupation of the province of Santiago and the administration of the military government in that province from August, 1898, to December, 1899. General Wood's appointment to this position appears to have been based upon the following dispatch from General Shafter, dated August 4:

"I think General Wood by far the best man to leave in command of the city of Santiago, and perhaps of the whole district."

This important command carried with it naturally an appointment as major-general of volunteers. This commission was vacated upon the reduction of the Army in the spring of 1899, when General Wood was again appointed brigadier-general of volunteers, and in December, 1899, because of the excellence of his administration of the military government in the Department of Santiago and Puerto Principe he was again made major-general of volunteers and appointed military governor of Cuba and commander of the United States forces in that island, then amounting to somewhat over 10,000 men.

In the spring of 1901 General Wood's commission as major-general of volunteers being about to expire by operation of law, he was nominated by President McKinley and confirmed by the Senate as brigadier-general of the Regular Army, and his last year's service as military governor was under that commission. In the autumn, after

the end of the military occupation of Cuba, General Wood applied for active service in the Philippines and was assigned to the command of the Department of Mindanao, where he is now serving.

The administration of the office of military governor of Cuba was directly under the control and supervision of the Secretary of War, acting for the President as Commander in Chief. The high estimate put by the Secretary of War upon General Wood's services as military governor is shown in the published orders of the War Department contained in the inclosed papers. The opinions expressed in these orders were also the opinions of both the Presidents under whom the services were rendered.

What was done in Cuba by the American Army between the surrender of Santiago and the establishment of the Cuban Republic doubtless seems to many who look back upon it in the light of its peaceful and successful conclusion to have been simple and easy; but you and the members of your committee who were concerned in government during that period will recall the difficulties, the doubts, the differences of opinion, and the anxieties which accompanied the discharge of our national obligations in that island, the serious consequences we saw reason to apprehend in case of erroneous judgment or feebleness of execution, and the satisfaction which we felt in having found a man whose ability and character were adequate to the difficult task of executing our national policy. The government of occupied territory is a military duty of a high order, and involves the exercise of many of the most important qualities of a general officer. It is of great importance to any country to have among its general officers men who measure up to the performance of such a duty, and the successful performance of such a duty is generally and justly regarded as a title to military promotion. Upon a review of General Wood's entire military record, I think it fair to say that no officer of the American Army below the grade of major-general has held more important commands, rendered more distinguished service, or demonstrated to a higher degree the possession of the qualities which fit a man to render valuable services to the country as major-general.

Will you permit me to add an observation upon the principle which sound policy requires the President to follow in making appointments to general office?

The law which recognizes seniority alone as the title to promotion up to the grade of colonel abandons that rule when it deals with general officers and imposes upon the President the duty of selecting the best men for generals without expressing any limitation upon the class from which he is to make the selection. When such a selection is to be made, two different considerations always present themselves to the appointing mind. One is the desire to reward long and meritorious service; the other is the duty to secure the best possible man to do the things that ought to be done in the future for the efficiency of the military establishment, the preparation of the country for war and for success in war, which we are always bound to contemplate as possible. It frequently happens that these two considerations do not coincide in pointing toward the same man. The appropriate reward of honor frequently comes to our officers when their careers are about to close—when they have passed the period of initiative, of ambition and strenuous exertion, and have come to the period of comparative repose. An army, all of whose general officers are selected for the purpose of

conferring rewards, and thus having at its head a constantly shifting body of general officers, none of whom has more than a very few years to serve, and all or nearly all of whom are just closing their careers and resting upon their laurels, can not possibly reach the highest standard of efficiency. To have a live army, which keeps abreast of the times, in a constant state of preparation and ready to meet emergencies with the greatest activity and force, we must have a reasonable proportion of its general officers selected from the men in the prime of life, with careers to make, with ambition, energy, initiative, and whose service will be long enough to maintain continuity of policy and sustained effort in working out ideas which require time for their accomplishment.

In the selection of this class of officers the all-important thing is the demonstration of exceptional capacity for the work which the country will rely upon the man to do. Previous rank is of little consequence provided the service shall have been long enough to furnish the requisite experience and make the demonstration of capacity certain. Public discussion of promotions to general office usually proceeds upon the view that promotion is to be considered only as a reward, but grateful as it is to reward past services and important as it is that they should be rewarded, I can not doubt that the highest duty of the appointing power, which is responsible for the future efficiency of the Army, is to secure the man of exceptional capacity. Where these two considerations point to the same man, as they sometimes do, the course is plain. Where they do not point to the same man it seems judicious to fairly divide the appointments to general office, making a part primarily with a view to reward and a part primarily with a view to future service. I think both considerations unite in this case.

These facts in General Wood's record and these views of public policy were the reasons which led President McKinley to select General Wood for brigadier-general of the Regular Army in preference to many officers of higher regular rank and to appoint him to that office upon the nomination which you confirmed three years ago next February. The present nomination is in the regular order of seniority according to the rank then established by the action of the President and Senate and indicates that the President sees no reason for reversing or departing from the conclusion then reached.

Very truly yours,

ELIHU ROOT,
Secretary of War.

Hon. REDFIELD PROCTOR.

Acting Chairman Senate Committee on Military Affairs.

MAJ. GEN. LEONARD WOOD.

The accompanying papers and extracts or summaries of the official records show in detail the services of Brig. Gen. Leonard Wood.

He was commissioned as assistant surgeon on the 5th of June, 1886, being then in his twenty-sixth year. Very shortly afterwards he took part in the campaign against the Apache Indians, serving as a line officer in command of a detachment of infantry. For his distinguished conduct in the campaign he was awarded a medal of honor. He was also commended in General Orders, No. 39, Headquarters of the Army, April, 9, 1891, for "gallant and hazardous service, courage,

and energy, encouraging the command under the most trying circumstances, and for untiring efforts in the campaign against hostile Apache Indians in Sonora, Mexico, during the greater part of which he commanded the detachment of infantry." During this campaign and the years immediately succeeding he served on the frontier under the then Brig. Gen. Nelson A. Miles, the then Lieut. Col. H. W. Lawton, the then Brig. Gen. William Montrose Graham, and the then Col. George A. Forsyth. When, at the outbreak of the Spanish war, he applied to the governor of Massachusetts for command of a Massachusetts volunteer regiment, the four officers above named sent to the governor the following letters recommending him for command of a regiment, and reciting his services in actual war upon which they based their recommendations.

HEADQUARTERS OF THE ARMY,
Washington, D. C., April 15, 1898.

THE GOVERNOR OF MASSACHUSETTS, *Boston, Mass.*

SIR: I have the honor to recommend to your favorable notice Capt. Leonard Wood, U. S. Army. This officer served in the field under my command for several months during the terrible campaign against the Apache Indians under Geronimo. He is one of the most enterprising, intelligent, fearless officers in the service and competent to fulfill the duties of a field officer, and I earnestly recommend him for such appointment in one of the regiments that may be organized in my native State.

Very respectfully,

NELSON A. MILES,
Major-General, Commanding U. S. Army.

WAR DEPARTMENT, INSPECTOR-GENERAL'S OFFICE,
Washington, April 15, 1898.

ROGER WOLCOTT,

Governor, Commonwealth of Massachusetts.

SIR: Respectfully, but earnestly, I desire to call your attention to Capt. Leonard Wood, U. S. Army, a citizen of Massachusetts. Captain Wood graduated at Harvard University, and later from the Harvard Medical College, entering the military service of the United States as an assistant surgeon soon after. It is not, however, of his service as a medical officer that I desire to speak. In his profession he has risen to the highest eminence, having the respect and confidence of the most distinguished personages of the country, including the President of the United States, being at the present time attending physician for himself and family. Almost immediately after joining the military service Captain Wood was assigned to a command organized to pursue and capture or destroy the band of renegade Apaches, commanded by the noted chief and warrior, Geronimo, who had been terrorizing and devastating the southern portion of Arizona and New Mexico and northern Sonora, Mexico. I had the honor to command this expedition, under the immediate direction of General Miles. Captain Wood, then an acting assistant surgeon, developed during this tedious and dangerous campaign (pronounced by the general commanding "the

most remarkable in the history of the United States Army") the strongest elements of soldierly instincts.

When through exposure and fatigue the infantry battalion lost its last officer, Captain Wood volunteered to command it in addition to his duties as surgeon. In this duty Captain Wood distinguished himself most. His courage, endurance, and example made success possible. I served through the war of the rebellion and in many battles, but in no instance do I remember such devotion to duty or such an example of courage and perseverance. It was mainly due to Captain Wood's loyalty and resolution that the expedition was successful. This acknowledgment was made by the commanding officer in his official report of the campaign, was approved by the general commanding, and Captain Wood was awarded a medal of honor by Congress as a tribute to his services. Since then Captain Wood has been conspicuous for gallant and intelligent faithful services. Now that a war seems imminent Captain Wood has determined to leave for the time his professional duties and take service with the fighting line as a soldier proper, and it is in this connection that I desire to recommend him to you as a competent and valuable soldier with field experience. He will be a credit to his State in any capacity of soldierly duty. The higher the position to which he may be appointed the greater will be his value. His connection with the service has prevented him from associating himself with the organized militia of your State, but he is such a valuable man that his State can ill afford to lose his services. I make my statement from my own personal knowledge of the man both as an inspector and for a time in the field his commanding officer.

Very respectfully,

H. W. LAWTON,

Lieutenant-Colonel, Inspector-General U. S. Army.

HEADQUARTERS DEPARTMENT OF THE GULF,
Atlanta, Ga., April 10, 1898.

The GOVERNOR OF MASSACHUSETTS, *Boston, Mass.*

SIR: Learning that Capt. Leonard Wood, assistant surgeon, U. S. Army, is desirous of exercising the command of a regiment from his State in case of the mobilization of Massachusetts troops in the near future, I have the honor to commend to your excellency's favorable notice this meritorious officer. I have known Capt. Wood intimately since 1889. During four years of that period he served under my command. I consider him one of the most promising officers of our Army, and believe him to be thoroughly well equipped to exercise the command of a regiment.

With a high sense of honor in all the obligations of life, he is the most conscientious and zealous officer in the discharge of duty.

His physique is superb; his mental qualifications are of the highest order.

I am, sir, with great respect, your excellency's most obedient servant,

Wm. MONTROSE GRAHAM,
Brigadier-General, U. S. Army.

728 TWENTIETH STREET, NW.,
Washington, D. C., April 9, 1898.

THE GOVERNOR OF MASSACHUSETTS.

SIR: I am informed that Capt. Leonard Wood, assistant surgeon, U. S. Army, is, or will be, an applicant for an appointment as colonel of one of the volunteer regiments that, in case of war with Spain, it is expected will be called for from your State.

Captain Wood served with me on the frontier of Arizona and in New Mexico a number of years ago. I have known him well for the past ten years, and I regard him as one of the very best soldiers I know.

I therefore recommend him strongly, in fact most urgently, for the position he seeks. In that capacity he will do honor to his State and prove a credit to the nation. He has all the sound judgment, good sense, executive ability, experience, and courage requisite to make him one of the very best and safest colonels in the Army. If you see fit to make him a colonel you will never have occasion to regret your action.

I am, Governor, very respectfully, your obedient servant,

GEORGE A. FORSYTH,
Brevet Brigadier-General, U. S. Army.

President McKinley appointed Captain Wood to be colonel of the First United States Volunteer Cavalry on the 8th of May, 1898. He commanded his regiment, which constituted one of the two attacking columns at Las Guaymas on June 24, 1898. His brigade commander, the present Lieutenant-General Young, reported as follows of him in this engagement:

"I can not speak too highly of the efficient manner in which Colonel Wood handled his regiment, and of his magnificent behavior on the field. Colonel Wood disdained to take advantage of shelter or cover from the enemy's fire while any of his men remained exposed to it—an error of judgment, but happily on the heroic side."

His division commander, Maj. Gen. Joseph Wheeler, reported as follows:

"The magnificent and brave work done by his regiment under the lead of Colonel Wood testifies to his courage and skill. The energy and determination of this officer had been marked from the moment he reported to me at Tampa, Fla., and I have abundant evidence of his brave and good conduct on the field, and I recommend him for consideration of the Government."

He was made brigadier-general of volunteers on the 8th of July, 1898, having won his brigadier-generalship by the gallantry and efficiency with which he served as colonel in the Santiago campaign, as he had won his colonelcy by the gallantry and efficiency with which he had served while acting as a line officer in command of a detachment of infantry in the campaigns against the Apaches. Of his conduct at the San Juan fight General Wheeler reported:

"Too much credit can not be given to the gallant brigade commanders, Colonels Wood and * * *."

Maj. Gen. W. S. Shafter, commanding the Fifth Army Corps, reported as follows:

"The following officers were conspicuous for their bravery and

handled their troops so well I desire to recommend them for promotion: * * * Colonel Wood, to be a brigadier-general."

Shortly after being appointed brigadier-general he was made military governor of Santiago. He received the appointment on the recommendation of his military superior, Major-General Shafter, who cabled to Washington on August 4: "I think General Wood by far the best man to leave in command of the city of Santiago, and perhaps of the whole district." So well did he perform his duties that President McKinley, on October 7, gave him the command of the Department of Santiago, making him also civil governor of the province of the same name, and appointing him major-general of volunteers on the 7th of December, 1898. On October 1, 1899, Maj. Gen. John R. Brooke, commanding the Division of Cuba, reported of him as follows:

"I desire to express my appreciation of the able assistance rendered me by the several department commanders in the transaction of the military portion of our duties in the Division of Cuba, as follows: * * * Brig. Gen. Leonard Wood."

So well did he do his work as governor of the province of Santiago that, purely on his merits, on the recommendation of the Secretary of War, President McKinley appointed him military governor of the island of Cuba on December 20, 1899. So great was his success in his new position, a position at that time of as great responsibility, difficulty, and importance as almost any other in our whole Government, that, by way of recognition and reward, somewhat over a year later, on the 4th of April, 1901, on the nomination of President McKinley, he was made a brigadier-general in the United States Army. He continued to serve with striking efficiency as military governor of the island of Cuba until on May 20, 1902, he turned over the government of the island to the first president of the Republic of Cuba. In the official records General Wood's services during these years are spoken of as follows:

[Extract from General Orders, No. 66, Adjutant-General's Office, July 4, 1902, to the Army of the United States.]

"The President thanks the officers and enlisted men who have been maintaining order and carrying on the military government of Cuba, because they have faithfully given effect to the humane purposes of the American people. They have governed Cuba wisely, recording justice and individual liberty; have honestly collected and expended for the best interests of the Cuban people revenues amounting to over \$60,000,000; have carried out practical and thorough sanitary methods, greatly improving the health and lowering the death rate of the island. They have gradually trained the Cubans in all branches of administration, so that the new Cuban Government, upon assuming power, has begun its work with a force of Cuban employees competent to execute its orders. They have transferred the government of Cuba to the Cuban people amid universal expressions of friendship and good will, and have left a record of order, justice, and liberty, of rapid improvement in material and moral conditions, a progress in the art of government which reflects great credit on the people of the United States." (General Wood was military governor of Cuba during most of the time covered by this order.)

Extract from the report of the Secretary of War dated December 1, 1902:

"I know of no chapter in American history more satisfactory than that which will record the conduct of the military government of Cuba. The credit of it is due, first of all, to Brig. Gen. Leonard Wood, the commander of the Department of Santiago until December, 1899, and thenceforth the military governor of the island."

The War Department, by direction of the President, thanked General Wood and the officials serving under him for their services in Cuba in General Orders, No. 38, Headquarters of the Army, 1903: "The administration of General Wood, both as military commander of the Division and Department of Cuba and as military governor, was highly creditable. The civil government was managed with an eye single to the benefit of the Cuban people. Under the supervision and control of the military governor the Cuban people themselves had an opportunity to carry on their own government to a constantly increasing degree, so that when Cuba assumed her independence she started with the best possible chance of success. Out of an utterly prostrate colony a free republic was built up, the work being done with such signal ability, integrity, and success that the new nation started under more favorable conditions than has ever before been the case in any single instance among her fellow Spanish-American republics. This record stands alone in history, and the benefit conferred thereby upon the people of Cuba was no greater than the honor conferred upon the people of the United States."

He is at present commanding the Department of Mindanao, in the Philippine Islands.

General Wood has received each promotion as a reward of signal gallantry or signal efficiency in the position from which he was promoted. Since his last promotion (that to brigadier-general in the United States Army on the 4th of February, 1901) there has been no change in his relative position on the roster. He now comes up for promotion in the regular order of seniority, standing at the head of the list of brigadier-generals.

Leonard Wood, born October 9, 1860, at Winchester, N. H., and appointed from Massachusetts. Assistant surgeon, January 5, 1886; captain and assistant surgeon, January 5, 1891; colonel First U. S. Volunteer Cavalry, May 8, 1898; brigadier-general, U. S. Volunteers, July 8, 1898; major-general, U. S. Volunteers, December 7, 1898; honorably discharged, April 13, 1899; brigadier-general, U. S. Volunteers, April 13, 1899; major-general, U. S. Volunteers, December 5, 1899, to June 30, 1901; brigadier-general, U. S. Army, February 4, 1901.

Commended for "gallant and hazardous service, courage, and energy, encouraging the command under the most trying circumstances, and for untiring efforts in the campaign against hostile Apache Indians in Sonora, Mexico, during the greater part of which he commanded the detachment of infantry." (General Orders, No. 39, Headquarters of the Army, April 9, 1891.)

Awarded a medal of honor for distinguished conduct in campaign against Apache Indians, summer of 1886.

Service.—Joined the Army as a contract surgeon June 9, 1885, and participated in the campaign against hostile Indians in Arizona and New Mexico. Was with Lawton's expedition against hostile Apaches under Geronimo, June, 1886, to February, 1887; in Arizona, New Mexico, and northern Mexico, and commanded infantry detachment

and scouts; in the field in Arizona, February, 1887, to July, 1889; at the Presidio, San Francisco, Cal., July, 1889, to August, 1893; at Fort McPherson, Ga., from September, 1893, to September, 1895; attending surgeon, Washington, D. C., to May, 1898; organizing and commanding the First U. S. Volunteer Cavalry to June, 1898, when he assumed command of the Second Brigade, Cavalry Division, Fifth Army Corps, in the Cuban campaign, participating in the battles of Las Guasimas and San Juan, Santiago de Cuba.

Upon the surrender of the Spanish forces at Santiago in July, 1898, he was appointed military governor of that city, and on October 7, 1898, he was assigned to the command of the Department of Santiago, being also civil governor of the province of Santiago. On July 1, 1899, the Department of Puerto Princepe was consolidated with his department, and known as the Department of Santiago and Puerto Princepe. He commanded that department until December, 1899. On December 20, 1899, he was appointed military governor of the island of Cuba, and in command of the United States troops therein, which duties he performed up to May 20, 1902, when he turned over the government of the island to Tomas E. Palma, first President of the Republic of Cuba. On duty at Washington, D. C., settling affairs of the late military government of the island of Cuba (en route to and at Berlin, Germany, to witness maneuvers of Prussian army, July to October, 1902; en route to United States to November, 1902) to March, 1903; en route to Philippine Islands, via Cairo, Egypt, and Hongkong, China, etc., to July 19, 1903; commanding Department of Mindanao, Philippine Islands, to date.

He commanded the First U. S. Volunteer Cavalry, constituting one of the attacking columns in the engagement at Las Guasimas, Santiago de Cuba, June 24, 1898.

His brigade commander, General Young, reports as follows: "I ordered the attack, and it was executed in a manner winning the admiration of the division commander and all present who witnessed it. I can not speak too highly of the efficient manner in which Colonel Wood handled his regiment and of his magnificent behavior on the field."

Colonel Wood disdained to take advantage of shelter or cover from the enemy's fire while any of his men remained exposed to it—an error of judgment, but happily on the heroic side.

He commanded the Second Cavalry Brigade at the battle of San Juan Hill, July 1, 1898. The division commander, Gen. S. S. Sumner, reports the assault was made with conspicuous gallantry and coolness, and that all officers showed marked ability.

Efficiency reports.—1898. By Secretary of War: Authorized to raise a regiment of volunteers possessing special qualifications, etc., to be designated as First Regiment U. S. Volunteer Cavalry. For commission in Massachusetts volunteers in event of war Captain Wood is especially gifted for the command of men, etc.

By Lieutenant-Colonel Wagner, assistant adjutant-general: Recommended for appointment as a colonel of a Massachusetts volunteer regiment.

By Lieutenant-Colonel Gilmore, assistant adjutant-general: Recommended for command of volunteers. He is a man of excellent character and marked ability in every respect. He would be an excellent man in the event of war to have command of volunteers.

By General Miles: To governor of Massachusetts: This officer served in the field under my command for several months during the terrible campaign against the Apache Indians under Geronimo. He is one of the most enterprising, intelligent, fearless officers in the service, and competent to fill the duties of a field officer, etc.

By Lieutenant-Colonel Lawton, inspector-general: Recommended to the governor of Massachusetts as a competent and valuable soldier with field experience. He will be a credit to his State in any capacity of soldierly duty; the higher the position to which he may be appointed the greater will be his value, etc.

By General Graham: Recommends him for command of a Massachusetts regiment. I consider him one of the most promising officers of our Army, and believe him to be thoroughly well equipped to exercise the command of a regiment, etc.

By General Forsyth: Recommended for appointment as colonel of a Massachusetts regiment of volunteers. Captain Wood served with me in the frontier of Arizona and in New Mexico a number of years ago, * * * and I regard him as one of the very best soldiers I know. I therefore recommend him strongly, in fact most urgently, for the position he seeks, etc.

[Extract from official report of Captain Lawton, Fourth Cavalry, Geronimo campaign.]

EN ROUTE TO FORT MARION, FLA.,
September 9, 1886.

SIR: I have the honor to submit the following report of operations against Geronimo's and Natchez's bands of hostile Indians made by the command organized in compliance with the following order:

* * * * *

On the 6th of July the command, consisting of infantry and scouts, marched from Oposura. No officer of infantry having been sent with the detachment, and having no officers with the command except Second Lieutenant Brown, Fourth Cavalry, commanding scouts, and Second Lieutenant Walsh, Fourth Cavalry, commanding cavalry, Assistant Surgeon Wood was, at his own request, given command of the infantry.

The work during June having been done by the cavalry, they were too much exhausted to be used again without rest, and they were left in camp at Oposura to recuperate.

* * * * *

On the 14th of July a runner was sent back by Lieutenant Brown of the scouts, with the information that the camp had been located, and that he would attack at once with his scouts, asking for the infantry to be sent forward to his support. I moved forward with the infantry as rapidly as possible, but did not reach Lieutenant Brown until after he had entered the hostile camp. The attacking party had been discovered and all the hostiles escaped. Their animals and camp equipage, with a large amount of dried beef, etc., fell into our hands, but the hostiles scattered and escaped on foot.

* * * * *

H. W. LAWTON,
Captain, Fourth Cavalry.

ADJUTANT-GENERAL DEPARTMENT OF ARIZONA.

Case of First Lieut. Leonard Wood, now captain, assistant surgeon.

Recommended by General Miles (in 1890) "For gallant and hazardous service against hostile Apaches in Sonora, Mexico, summer of 1886."

The following are extracts from official reports in this case:

Captain Lawton, commanding expedition against Geronimo's and Natchez's bands of hostile Indians, in his report dated "En Route to Fort Marion, Fla., September 9, 1886, says: * * * On the 6th of July (1886) the command, consisting of infantry and scouts, marched from Oposura (Sonora, Mexico). No officer of infantry having been sent with the detachment, and having no officers with the command except Second Lieutenant Brown, Fourth Cavalry, commanding scouts, and Second Lieutenant Walsh, Fourth Cavalry, commanding cavalry, Assistant Surgeon Wood was, at his own request, given command of the infantry. * * * During this short campaign the suffering was intense. The country was indescribably rough and the weather swelteringly hot, with heavy rains every day or night. The endurance of the men was tried to the utmost limit. * * * The command, taking the field May 5, continued almost constantly on the trail of the hostiles until their surrender, more than four months later, with scarcely a day's rest or intermission. It was purely a command of soldiers, there being attached to it barely one small detachment of trailers. * * *

"I desire to particularly invite the attention of the department commander to Asst. Surg. Leonard Wood, the only officer who has been with me through the whole campaign. His courage, energy, and loyal support during the whole time, his encouraging example to the command when work was the hardest and prospects darkest, his thorough confidence and belief in the final success of the expedition, and his untiring efforts to make it so, has placed me under obligations so great that I can not even express them. * * *

Gen. O. O. Howard, commanding Division of Pacific, in his indorsement on the above report, says: * * * I concur with him in commanding Asst. Surg. Leonard Wood. * * *

[Extract from report of Capt. H. W. Lawton, Fourth Cavalry, of his expedition against Geronimo's band of hostile Indians, dated September 9, 1886, printed in report of Secretary of War, 1886, p. 179.]

* * * * *

On the 14th of July a runner was sent back by Lieutenant Brown of the scouts with the information that the camp had been located and that he would attack at once with his scouts, asking for the infantry to be sent forward to his support. I moved forward with the infantry as rapidly as possible, but did not reach Lieutenant Brown until after he had entered the hostile camp. The attacking party had been discovered, and all the hostiles escaped. Their animals and camp equipage, with a large amount of dried beef, etc., fell into our hands, but the hostiles scattered and escaped on foot. Their trail was again discovered and followed up the Aros River, thence northwest until the 23d of July.

* * * * *

[Extract from report of Asst. Surg. Leonard Wood, U. S. Army, of the same expedition, to General Miles, dated September 9, 1886.]

* * * * *

During the latter part of June and July it was my good fortune to command the infantry. During this time we were constantly on the

trail named about these rivers and eventually jumped the hostile camp, capturing everything except the hostiles.

* * * * *

[Extract from report of Asst. Surg. Leonard Wood, U. S. Army.]

SEPTEMBER 9, 1886.

Brig. Gen. N. A. MILES, U. S. Army,
Albuquerque, N. Mex.

SIR: I have the honor to forward the following report relating to the recent expedition in Sonora against the hostile Apaches:

* * * * *

"During the latter part of June and July it was my good fortune to command the infantry. During this time we were constantly on the trail named about these rivers, and eventually jumped the hostile camp, capturing everything except the hostiles. In the detachment of Companies D and K, Eighth U. S. Infantry, were men who had served in India and South Africa, and in their opinion this was by far the hardest and roughest service they had ever seen.

"Some idea of the heat may be gained by these facts: Men could not bear their hands on the iron work of their guns or on rocks. Pack trains had to be stopped after 5 or 6 miles on account of animals being overheated and played out. The temperature and roughness of the country combined made marching work of the most severe nature. I kept one man mounted in the rear of the line to bring along any men who were overcome by heat and fatigue. These infantrymen were supposed to be selected on account of their fitness for the work, but even then only about one-third proved fit for the duty, and many were sent back.

* * * * *

Very respectfully, your obedient,

LEONARD WOOD,
First Lieutenant and Assistant Surgeon, U. S. Army.

General Breck indorsed the case as follows:

"This will have to be deferred until some more particulars of a fight are received.

"I think Colonel Lawton is to write a letter about this officer.

"No further particulars have been asked for or received here."

MEDICAL DEPARTMENT.

Leonard Wood, now first lieutenant, assistant surgeon; same when recommended. Recommended for (no rank stated) for gallant and hazardous service against hostile Apaches in Sonora, Mexico, summer of 1886.

Recommended by Maj. Gen. N. A. Miles, May 26, 1890.

SEPTEMBER 3, 1890.

General S. will be glad to recommend a brevet in this case if he was in a fight, so as to come within the law.

W. B.

INSPECTOR-GENERAL'S OFFICE,
Los Angeles, Cal., July 22, 1894.

Maj. J. G. GILMORE,
Assistant Adjutant-General.

SIR: Referring to your letter of June 17, concerning recommendations for brevet for Asst. Surg. Leonard Wood for gallant and hazardous service while serving under my command in the Geronimo campaign in Sonora, Mexico, I have the honor to state in reply that owing to the fact that all my papers, reports, and memoranda concerning that campaign are packed with my property in Washington I have been somewhat delayed in preparing my reply to enable me to secure the necessary dates, etc., from other sources. In connection with the services rendered by Assistant Surgeon Wood and other officers under my command at the time under consideration, I desire to call attention to some of the conditions which then existed, and which should form an important factor in considering the merit of the service of individuals, and which to a great extent have at this late day been lost sight of.

The last outbreak of Geronimo and his band had occurred more than a year before this campaign was inaugurated, during which time the southern portion of New Mexico and Arizona and northern Sonora had been completely terrorized and the industries paralyzed by this Indian and his band. That portion of the army in New Mexico and Arizona had been operating more or less unsuccessfully all of this time. An expedition of Indians to the stronghold of the hostiles had failed, and the commander been killed. The murders committed by the hostile Indians had reached alarming numbers, and their atrocities were unusual, revolting, and terrorizing. The army were disheartened and discouraged. The confidence of the people was shaken in their efficiency for this work. The press was loud and bitter in its criticisms of their incompetency. General Crook himself was subjected to open insult when traveling on the cars in Arizona. Congress was seriously considering the propriety of organizing a regiment of frontiersmen, and also authorizing a reward of \$25,000 for the capture of this Indian.

Under these conditions the expedition I had the honor to command was organized and entered upon its work. While there were plenty of good men and officers willing and desirous to undertake the difficult task set them, to that extent had their confidence in their ability to successfully accomplish the object been shaken that none believed any valuable results would be accomplished, and the fatigue and hardships of the work soon overcame the strength of the physically weak ones. It is in this connection that I called special attention to First Lieutenant and Assistant Surgeon Wood. He was not only willing and anxious to undertake the work of the campaign, but believed every moment of the time that the issue would justify its inception, and he never lost an opportunity, either by his voice or example, to make it so. As a medical officer he was prompt, attentive, and untiring, but what I now refer to was his work, independent of and in addition to his professional duties, work which he performed voluntarily because of his loyal soldierly feeling, and courage and enthusiasm in his work.

Assistant Surgeon Wood is entitled to consideration for his energy, courage, and soldierly example exhibited through the whole campaign. Among the special or individual instances I cite the following: On

the night of May 29, 1886, while on a trail closely following the hostile Indians, I found it imperative to communicate with General Miles. I endeavored to employ some men at a ranch to carry my message to the railroad, but could not induce them to go because of their fear of the hostiles who were reported to have sent a raiding party between us and the railroad to draw us off the trail. Assistant Surgeon Wood volunteered to undertake the delivery of the message, and rode 35 miles, sent and received a reply to his message from General Miles, and returned to camp by 7.30 o'clock a. m., May 30, having ridden 70 miles, and then marched with the command on foot a distance of 32 miles the same day. June 11 to 18 Assistant Surgeon Wood, who was at Calabassas, was placed in command of a pack train of 70 animals and 13 men with supplies for my command, and conducted them by forced marches through a very difficult country from that point to the Cacascas Mountains, Mexico, where they overtook the command two days after supplies were exhausted.

On the night of June 30, near Sinoquipa, Sonora, Assistant Surgeon Wood, who had voluntarily accompanied the scouts along the San Augustin Mountains to look up the trail of the hostiles, volunteered to go alone, after four of the scouts had refused to accompany him because of the danger, to Sinoquipa to seek important information relative to a party of hostiles supposed to be near the town. Starting late in the afternoon in the direction Sinoquipa was supposed to lie—the country was unknown and without trails—he proceeded until he came upon a fresh trail of Indians. A shower had fallen less than half an hour before, and the trail had been made since the rain. He placed himself in a strong position until after dark, then proceeded. Arrived at Sinoquipa about 9 p. m. One Mexican killed by these Indians and one wounded were brought in while he was there. Starting the same night he returned alone to camp with the information, arriving about 2 o'clock a. m., having traveled a distance of about 34 miles.

July 2 the cavalry, having become exhausted, was left in camp to recuperate, and the expedition was continued with infantry only. Through the severity of the exposure, and from the great exertion required, only those possessing great vitality and endurance could hold out continuously. From this and other causes my officers became reduced, so that none were left with the infantry. Doctor Wood volunteered to command them and on July 2 was assigned to their command, which he exercised until July 30, when the infantry were again returned to recuperate and the cavalry brought out. During this time the most trying work of the campaign occurred and the endurance of the command was tried to its utmost. Assistant Surgeon Wood marched at the head of his men, and by his example made their work possible. During this time he was bitten by a tarantula. The wound was painful in the extreme and the swelling very great, but he continued to march at the head of his men, making a forced march of 28 miles through an almost impassable country during intensely hot weather, suffering indescribable physical pain, his thigh being swollen to double its normal size and intensely inflamed.

His fortitude and courage at this time were something beyond anything I had ever before witnessed. On this day, July 13, the camp of the hostiles was located by the scouts on the Yaqui River, where it flows through some of the roughest portion of the Sierra Madre. The

camp was attacked by the scouts under Lieutenant Brown, Fourth Cavalry, and the infantry commanded by Asst. Surg. Leonard Wood. The hostiles were completely surprised, and abandoned their camp precipitately, fleeing in every direction, their camp and equipage, food, horses, and everything belonging to them falling into our hands. The scouts fired upon the camp, but no return fire was given. The left of the infantry line, under the immediate command of Doctor Wood, received a volley, but it was afterwards ascertained that it came from some of our own scouts. Following this, and brought about by his suffering and exposure, Doctor Wood was, about July 15, while marching up the Yaqui River, stricken with fever, becoming delirious, and in his weak and exhausted condition I despaired of saving his life, but constructed a travois and determined to drag him to some ranch, if I could find one, and there leave him. Before starting, however, he regained his reason, refused to be sent back, was placed on a mule, and carried along until he was again able to assume his usual duties in command of the infantry.

August 3 to 8 Doctor Wood volunteered to accompany scouts on a long and perilous reconnaissance in the vicinity of the "Espanosa del Diablo," Sierra Madre, the commanding officer of the scouts being too ill to accompany them, crossed the Aros River by swimming while running a torrent, this being one of the longest and most trying of any of the reconnoissances made. August 26 and 27 Assistant Surgeon Wood was active in assisting in getting forward my pack train through exceedingly rough mountains, with rations for command which had been without for three days. August 29 to 31, Geronimo and his band having conditionally surrendered to me and having moved his people to a point near and under the protection of my camp, pending the receipt of instructions from General Miles, the Mexican troops presented themselves in force much larger than mine and demanded the custody of the hostiles. Declining to comply, I detached Lieutenant Gatewood with his interpreter to escort the prisoners to United States territory, following with my command as soon as I could safely move from the Mexicans. Accompanied by Assistant Surgeon Wood, I left the camp of my troops and proceeded to the camp of the hostiles. My command, having missed the trail, did not reach the camp, and I proceeded to overtake them, leaving Assistant Surgeon Wood and Lieutenants Clay and Gatewood with the hostiles, they remaining two days with them in such a position that they would have been at their mercy if they had been ill disposed toward them. Assistant Surgeon Wood was conspicuous on this occasion by preventing a possible misunderstanding by the exercise of coolness and good judgment.

In commending Assistant Surgeon Wood so highly I do not wish to be understood as implying that he is the only one connected with that campaign deserving consideration. In my opinion he is more deserving from the fact that he is the only officer who participated in the whole campaign from first to last and never lagged one instant in his duty and devotion. I believe that every officer and soldier who took part in that trying work is entitled and, judged by the merits of others who have received consideration for like service, should receive either a brevet or a medal of honor, and in some instances both should be bestowed. The official reports seem to me to fully establish the arduous work undertaken and its successful termination. The people of the country who suffered from the encroachments of these Indians,

and who know personally of the difficult and tireless labor through which peace and safety to their houses was assured, have not been selfish of their praise or backward in substantially expressing their appreciation to those who accomplished so much for them. Neither do I claim that my immediate command suffered all the hardships or were alone in accomplishing the final result. I speak, however, for those who served under me and of whose work I am personally cognizant, the character and value of which I believe from my experience I am capable of judging.

Very respectfully,

H. W. LAWTON,
Lieutenant-Colonel and Inspector-General.

HEADQUARTERS DEPARTMENT OF THE EAST,
Governors Island, N. Y., February 5, 1895.

Respectfully forwarded. The inclosed letter from Colonel Lawton was duly received, but at the time there were objections to granting brevets to some officers that I had recommended, and I delayed sending these papers forward, hoping that I should be able to go to Washington and personally lay the matter before the authorities.

I now most earnestly renew the recommendation, calling especial attention to the letter of Colonel Lawton, which describes one of the most laborious, persistent, and heroic campaigns in which men were ever engaged, and the fact that Capt. Leonard Wood, assistant surgeon, volunteered to perform the extraordinary hazardous and dangerous service is creditable to him in the highest degree. For his gallantry on the 13th of July in the surprise and capture of Geronimo's camp I recommend that he be brevetted for services on that date.

NELSON A. MILES,
Major-General.

[Second indorsement.]

ADJUTANT-GENERAL'S OFFICE,
February 15, 1895.

Respectfully submitted to the Lieutenant-General, with brief inclosed.

J. C. GILMORE,
Assistant Adjutant-General.

[Third indorsement.]

ADJUTANT-GENERAL'S OFFICE,
October 11, 1897.

Respectfully submitted to the Major-General Commanding the Army.

W. P. HALL,
Assistant Adjutant-General.

[Fourth indorsement.]

HEADQUARTERS OF THE ARMY,
Washington, D. C., December 28, 1897.

Reference to the board which considers medal-of-honor cases desired by the Major-General Commanding.

J. C. GILMORE,
Assistant Adjutant-General.

WAR DEPARTMENT, OFFICE OF THE SECRETARY,

March 29, 1898.

By direction of the President a medal of honor is presented to Dr. Leonard Wood, U. S. Army.

Throughout the campaign against hostile Apaches in the summer of 1886, this officer, then assistant surgeon and serving as medical officer with Captain Lawton's expedition, rendered specially courageous and able services involving extreme peril and display of most conspicuous gallantry under conditions of great danger, hardship, and privation. He volunteered to carry dispatches through a region infested with hostile Indians, making a journey of 70 miles in one night, and then marched 30 miles on foot the next day. For several weeks, while in close pursuit of Geronimo's band and constantly expecting an encounter, Assistant Surgeon Wood exercised the command of a detachment of infantry to which he requested assignment, and that was then without an officer.

R. A. ALGER,
Secretary of War.

The Secretary of War directs that in this case the medal be engraved as follows:

The Congress
to
Capt. Leonard Wood,
Asst. Surg., U. S. A.,
for
distinguished conduct in
campaign against Apache Indians,
summer, 1886.

H. C. CORBIN,
Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, April 4, 1898.

ADJUTANT-GENERAL'S OFFICE,
Washington, April 8, 1898.

Capt. LEONARD WOOD,
Assistant Surgeon, U. S. Army,
2000 R Street NW, Washington, D. C.

SIR: I have the honor to transmit herewith, by registered mail, the Congressional medal of honor presented to you for distinguished conduct in the campaign against Apache Indians in the summer of 1886, as set forth in the letter addressed to you by the Secretary of War under date of March 29, 1898.

Please acknowledge the receipt of the medal, and also the knot to be worn in lieu thereof and the ribbon to be worn with the medal, heretofore furnished you.

Very respectfully,

WILLIAM H. CARTER,
Assistant Adjutant-General

1814 G STREET NW.,
Washington, D. C., April 11, 1898.

The ADJUTANT-GENERAL, U. S. ARMY,
Washington, D. C.

SIR: I have the honor to hereby acknowledge the receipt of the "Congressional medal of honor" awarded me. I have also the honor to acknowledge the receipt of the ribbon and knot.

Very respectfully, your obedient servant,

LEONARD WOOD,
Captain and Assistant Surgeon, U. S. Army.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 23, 1898.

Hon. ROGER WOLCOTT,
Governor of Massachusetts, Boston, Mass.

SIR: I have the honor to invite the attention of your excellency to the merits of Capt. Leonard Wood, U. S. Army, who desires an appointment as colonel of a Massachusetts volunteer regiment. Captain Wood has had more than twelve years' service as a commissioned officer in the Regular Army, and the fact that he has seen arduous service on the frontier is shown by the medal of honor which he received for conspicuous gallantry in action. He is a man of powerful physique, great intellectuality, and high professional attainments. I can not too highly commend him to the favorable consideration of your excellency.

Very respectfully,

ARTHUR L. WAGNER,
Assistant Adjutant-General.

WASHINGTON, D. C., April 9, 1898.

The GOVERNOR OF MASSACHUSETTS.

DEAR SIR: It gives me great pleasure to state that I have known Capt. Leonard Wood, U. S. Army, personally and by reputation for several years. He is a man of excellent character and marked ability in every respect. He would be an excellent man in the event of war to have command of volunteers, and I most earnestly recommend him for such appointment from his State, of which you have the honor to be governor.

Captain Wood is what is known as "A medal of honor man," having won his medal by most ably leading a command of troops when all of its officers had been disabled in one of the hardest and severest campaigns known to the country in Indian warfare.

Should you appoint him, you will find that he will do you credit and honor your State and the United States in case the opportunity comes to his command.

Very respectfully,

J. C. GILMORE,
Lieutenant-Colonel, Assistant Adjutant-General.

WAR DEPARTMENT, OFFICE OF THE SECRETARY,

Washington, April 16, 1898.

MY DEAR GOVERNOR: It is with more than common pleasure to me to give to Capt. Leonard Wood, of the United States Army, a letter of recommendation to you.

Captain Wood is especially gifted for the command of men. He is a man of great ability and courage, and his experience in the Indian wars, and bringing with that experience the entire confidence of the Army, confirms all his friends, of whom I am glad to be one, claim for him.

If, in the trouble that seems to be threatening us and the furnishing of troops from your Commonwealth, you can grant to the captain a commission, you will give to the Army a most valuable man.

I am, yours, very truly,

R. A. ALGER, *Secretary of War.*

Governor ROGER WOLCOTT, *Boston, Mass.*

WAR DEPARTMENT,
Washington, April 28, 1898.

Capt. Leonard Wood, assistant surgeon, U. S. Army, is hereby authorized to raise and organize, under the second proviso of section 6 of the act approved April 22, 1898, entitled "An act to provide for temporarily increasing the military establishment of the United States in time of war, and for other purposes," a regiment of volunteers possessing special qualifications as horsemen and marksmen, to be designated as the First Regiment of United States Volunteer Cavalry, under the rules and regulations prescribed by the War Department.

R. A. ALGER, *Secretary of War.*

SIERRA MAESTRA MINING COMPANY,
New York, November 11, 1899.

The PRESIDENT, *Washington, D. C.*

YOUR EXCELLENCY: The undersigned mining engineers having been personally in Santiago de Cuba during the yellow-fever season last summer naturally acquired some knowledge of the situation and the personnel of the administration in that province.

We take the liberty of calling Your Excellency's attention, which, so far as we know, has not been mentioned in the newspapers, the great esteem and confidence with which Gen. Leonard Wood is regarded by the native population in the province of Santiago.

We do not believe that any American on the island is so universally trusted and respected by all classes of citizens as is this general. May it not be this fact, in a measure, that accounts for General Wood's

expressed belief that he could dispense with some of the military power now considered necessary on the island?

Very respectfully,

F. ALBA-DE-COSTA.
NATHANIEL HIBBERT.
HUGH F. GRIFFIN.
— BROWN.

[Translation.]

To the honorable the Secretary of the United States of America.

HONORABLE SIR: As representatives of the "Farmers of the Island of Cuba" we hereby request you to inform President McKinley that we are highly satisfied with the measures being taken by the worthy Gen. Leonard Wood for the prosperity of our country, and that, his name being engraved in our hearts, the Cuban people can never forget him, for they admire him for his talent and bless him for his virtues.

Habana, January 27, 1901.

Dr. EMILIO ACOSTA,
President of the Cuban Farmers.
CARLOS C. RODRIGUEZ,
Secretary.

GENERAL WOOD'S APPOINTMENT AS BRIGADIER-GENERAL.

When General Wood was made a brigadier-general in the Regular Army by appointment of President McKinley, and by the unanimous vote of the Senate, he was advanced over many officers who had been longer in the service and who, until then, held higher rank than he had held. There might have been at that time some propriety in urging objection on such an account to his confirmation, but there was no objection of the kind because it was then well understood that his promotion by President McKinley was because—in the judgment of the President, who, under the Constitution and the laws, has a right to select without regard to seniority in the appointment of generals—General Wood had rendered conspicuous and meritorious services and had shown abilities and qualifications that well entitled him, in the judgment of the President, to the rank he was thus giving him, especially in view of the service he was then rendering as military governor of Cuba. The Senate and all others who were interested to have knowledge on the subject were familiar with the fact that the advancement of General Wood at that time was made for these reasons; and that, as a result of it, he was given rank over brother officers who had theretofore been his superiors.

That appointment and that confirmation do not seem to be now open to objection; but if it is to be considered at all attention is

called to the testimony of the Secretary of War in regard thereto, commencing at page 859 of the record and continuing to the bottom of page 868:

Secretary Root. May I say a word on another subject—the subject of appointments?

Senator TELLER. You mean the appointments of the judges?

Secretary Root. The appointments of general officers.

Senator TELLER. Oh, yes.

SECRETARY ROOT. I have here a paper containing the names of all the gentlemen who were appointed general officers at the time of General Wood's appointment. They were agreed upon by President McKinley and myself, and the question of the order in which they were to be appointed coming up, it was, on the suggestion of one of us—I do not remember which one—determined that I should get from the War Department a statement of the dates of retirement of the different officers. I have here that statement, which I took over to President McKinley, and he took it and put down a small letter in pencil after each name, showing the order in which he wished these officers to be arranged. He marked Gen. John C. Bates with a small "a," Lloyd Wheaton "b," George W. Davis "c," Samuel S. Sumner "d," Leonard Wood "e," Robert H. Hall "f," Robert P. Hughes "g," George F. Randall "h," William A. Kobbe "i," Frederick D. Grant "j," and J. Franklin Bell he did not mark, as he was the only one left of those who were to be appointed for service.

Theodore Schwann and Col. A. F. Daggett were on the list to be retired immediately. Those appointments were made in the order designated by him, in that way, on that paper, and if you will bear with me I would like to state a few facts about the list available for appointment. Of course, since the beginning of the war with Spain there has been very rapid promotion in some branches of the Army, much more rapid in some than in others. There have been constant and very great changes. Seven-eighths of all the officers of the Army are serving under commissions given since you went out, Senator Alger.

Senator ALGER. Seven-eighths of all the officers?

Secretary Root. Seven-eighths of all the officers of the Army.

Senator FORAKER. Is it possible?

Secretary Root. And it is rather the most satisfactory way of considering relative rank for the purposes of promotion to take the rank as it stood at the beginning of the war with Spain. It is a fact that there are now in the United States Army only five men who at the beginning of the war with Spain ever commanded a regiment in action. They are all general officers. They are General Young, General MacArthur, General Wade, General Corbin, and General Randall.

Senator FORAKER. They are all major-generals?

Secretary Root. Except General Randall, who stands next in order.

Senator FORAKER. So that this promotion of General Wood does not put him ahead of anybody who would have been entitled, if we had looked to seniority at this time, as rank stood at the beginning of the war?

Secretary Root. Yes, sir. There are now in the Army only 11 men who at the beginning of the war with Spain ever commanded a regi-

ment, either in war or in peace, either as colonel or lieutenant-colonel.

Senator ALGER. That is most astonishing.

Secretary Root. They are all generals except one, Col. Jacob Kline, of the Twenty-first Infantry. As to him, it is appropriate that he should be promoted before his retirement.

Senator SCOTT. How about my friend, Godwin?

Secretary Root. He is not in the list. He never commanded a regiment before the war with Spain. The President has appointed and the Senate has confirmed—

Senator SCOTT. Before you go to that, can you give me the number of officers who are now in service who were officers during the civil war?

Secretary Root. Yes, sir.

Senator SCOTT. How many have we left?

Secretary Root. I think there are 135. They did not all serve as officers in the civil war.

Senator SCOTT. Yes; I mean those who served in the civil war.

Secretary Root. I think the number is 135.

The CHAIRMAN. Some of them served as enlisted men in the civil war.

Senator SCOTT. I understand.

Secretary Root. That information has been drawn up and supplied by the Adjutant-General.

The list referred to is here printed in the record, as follows:

WAR DEPARTMENT,
Washington, December 16, 1903.

The CHAIRMAN OF THE COMMITTEE ON MILITARY AFFAIRS,
United States Senate.

SIR: As requested in letter of the 11th instant from Mr. R. W. Thompson, clerk Committee on Military Affairs of the Senate, I have the honor to transmit herewith a list of the officers of the Army now on the active list who served in the war of the rebellion.

Very respectfully,

ELIHU ROOT,
Secretary of War.

List of officers of the Army now on the active list who served in the war of the rebellion.

Present rank.	Name.	Date of original entry into the service.
Lieutenant-General	Samuel B. M. Young	Apr. 25, 1861
Major-general	Adna R. Chaffee	July 22, 1861
Do	Arthur MacArthur	Aug. 4, 1862
Do	John C. Bates	June 26, 1861
Do	James F. Wade	June 24, 1861
Brigadier-general	Samuel S. Sumner	June 14, 1861
Do	George M. Randall	Apr. 20, 1861
Do	William A. Kobbe	June 5, 1862
Brigadier-general	Frank D. Baldwin	Sept. 19, 1861
Do	Theodore J. Wint	Oct. 12, 1861
Do	Jesse M. Lee	Nov. 13, 1861
Do	Joseph P. Sanger	May 1, 1861
Do	Francis Moore	Sept. 10, 1861
Do	Peter C. Hains	July 1, 1857
Major-general	Camillo C. C. Carr	Aug. 15, 1862
Major	Henry C. Corbin	July 28, 1862
Do	Edward Davis	Sept. 20, 1862
Brigadier-general	John D. C. Hoskins	July 8, 1863
Colonel	George B. Davis	Sept. 10, 1863
Brigadier-general	Edgar S. Dudley	May 28, 1864
Colonel	Charles F. Humphrey	Mar. 17, 1863
Do	Forrest H. Hathaway	Sept. 4, 1862
	Joshua W. Jacobs	Nov. 10, 1861

List of officers of the Army now on the active list who served in the war of the rebellion—
Continued.

Present rank.	Name.	Date of original entry into the service.
Colonel.....	John L. Clem ..	May 1, 1863
Lieutenant-colonel.....	George E. Pond ..	Dec. 9, 1863
Do.....	Crosby P. Miller ..	Sept. 4, 1862
Do.....	Theodore E. True ..	Apr. 25, 1861
Do.....	John McE. Hyde ..	June 16, 1861
Major.....	William W. Robinson, jr.	Mar. 17, 1865
Captain.....	Theodore Sternberg ..	Aug. 23, 1862
Do.....	Thomas Swope ..	Dec. 19, 1861
Do.....	Noble H. Creager ..	Aug. 15, 1862
Do.....	Daniel W. Arnold ..	May 14, 1864
Do.....	George L. Goodale ..	Oct. 11, 1862
Brigadier-general.....	John F. Weston ..	Nov. 26, 1861
Colonel.....	William L. Alexander ..	Sept. 23, 1862
Lieutenant-colonel.....	Henry B. Osgood ..	Sept. 30, 1862
Do.....	James N. Allison ..	Aug. 10, 1863
Captain.....	William L. Gearly ..	July 17, 1861
Brigadier-general.....	Robert M. O'Reilly ..	Jan. 7, 1864
Colonel.....	Charles Smart ..	Nov. 5, 1862
Do.....	Timothy E. Wilcox ..	Jan. 4, 1865
Lieutenant-colonel.....	Henry S. Turrill ..	Feb. 13, 1864
Do.....	Edwin F. Gardner ..	Mar. 22, 1865
Colonel.....	Frank M. Coxe ..	Nov. 2, 1863
Do.....	Francis S. Dodge ..	Oct. 9, 1861
Major.....	John L. Bullis ..	Aug. 8, 1862
Do.....	Jerome A. Watrous ..	July 16, 1861
Do.....	William W. Gilbert ..	June 26, 1861
Do.....	Seymour Howell ..	Aug. 19, 1861
Do.....	Otto Becker ..	Nov. 22, 1861
Do.....	Eugene Coffin ..	June 1, 1863
Brigadier-general.....	George L. Gillespie ..	July 1, 1858
Colonel.....	Charles R. Suter ..	Do.
Do.....	Garrett J. Lydecker ..	Sept. 1, 1860
Do.....	Amos Stickney ..	July 1, 1860
Do.....	Alexander Mackenzie ..	Sept. 1, 1860
Do.....	Oswald H. Ernst ..	July 1, 1860
Do.....	David P. Heap ..	Do.
Do.....	William A. Jones ..	Do.
Lieutenant-colonel.....	Charles J. Allen ..	July 24, 1862
Do.....	Clinton B. Sears ..	May 10, 1861
Major.....	Charles F. Powell ..	June 13, 1861
Do.....	Richard L. Hoxie ..	Aug. 16, 1862
Colonel.....	William L. Marshall ..	July 1, 1857
Do.....	Alfred Mordecai ..	July 1, 1859
Do.....	John R. McGinness ..	Do.
Do.....	Frank H. Phipps ..	Do.
Do.....	John G. Butler ..	Do.
Lieutenant-colonel.....	John Pitman ..	July 18, 1861
Do.....	Charles Shaler ..	Apr. 25, 1861
Brigadier-general.....	Adolphus W. Greely ..	July 26, 1861
Captain.....	Eugene O. Feehét ..	Nov. 26, 1861
Major.....	John Tweedale ..	Aug. 22, 1862
Chaplain.....	George Robinson ..	Do.
Do.....	Orville J. Nave ..	Aug. 14, 1862
Do.....	Joseph A. Potter ..	Nov. 21, 1861
Do.....	Charles S. Walkley ..	Sept. 20, 1861
Professor.....	Edward E. Wood ..	Sept. 8, 1862
Colonel, cavalry.....	Thomas C. Lebo ..	Apr. 26, 1861
Do.....	William M. Wallace ..	Mar. 29, 1864
Do.....	Edward S. Godfrey ..	Apr. 26, 1861
Do.....	Charles Morton ..	July 29, 1861
Do.....	Earl D. Thomas ..	Apr. 1, 1862
Lieutenant-colonel, cavalry.....	William Stanton ..	Sept. 13, 1862
Do.....	Edward A. Godwin ..	Feb. 13, 1865
Do.....	Samuel L. Woodward ..	Feb. 1, 1862
Do.....	William H. Beck ..	Apr. 16, 1861
Do.....	Frank U. Robinson ..	Oct. 1, 1864
Major, cavalry.....	Samuel W. Fountain ..	May 2, 1864
Brigadier-general.....	Ezra B. Fuller ..	May 17, 1864
Colonel, artillery.....	Wallace F. Randolph ..	Apr. 18, 1861
Do.....	George S. Grimes ..	Aug. 16, 1862
Do.....	Benjamin K. Roberts ..	July 25, 1863
Do.....	Asher C. Taylor ..	Apr. 25, 1861
Do.....	Henry W. Hubbell ..	Apr. 17, 1861
Do.....	Anthony W. Vogdes ..	Aug. 13, 1863
Lieutenant-colonel, artillery.....	Frank Thorp ..	Oct. 14, 1862
Do.....	Louis V. Caziare ..	Aug. 16, 1862
Do.....	Peter Leary, jr ..	Aug. 11, 1862

List of officers of the Army now on the active list who served in the war of the rebellion—Continued.

Present rank.	Name.	Date of original entry into the service.
Lieutenant-colonel, artillery	Charles Humphreys	Feb. 14, 1865
Do.....	Alexander D. Schenck	Apr. 17, 1861
Do.....	Sedgwick Pratt	May 26, 1863
Major, artillery	Oliver E. Wood	July 29, 1862
Do.....	Joseph M. Calif	Oct. 8, 1863
Do.....	Charles W. Hobbs	Aug. 19, 1862
Do.....	William E. Birkhimer	Mar. 21, 1864
Do.....	Henry A. Reed	Aug. 14, 1862
Colonel, infantry	Jacob Kline	Sept. 13, 1861
Do.....	William S. McCaskey	Apr. 20, 1861
Do.....	Constant Williams	July 23, 1861
Do.....	S. P. Jocelyn	Aug. 22, 1863
Do.....	William E. Dougherty	Apr. 10, 1860
Do.....	John W. Bubb	Sept. 13, 1861
Do.....	Alfred C. Markley	July 11, 1864
Do.....	Henry C. Ward	July 31, 1861
Do.....	Charles H. Noble	June 20, 1861
Do.....	Walter T. Duggan	June 13, 1861
Do.....	Butler D. Price	Dec. 6, 1861
Do.....	Henry H. Adams	Feb. 2, 1864
Do.....	Owen J. Sweet	Sept. 6, 1862
Do.....	John J. O'Connell	Feb. 3, 1865
Do.....	Samuel R. Whitall	May 5, 1864
Do.....	James Regan	June 1, 1858
Do.....	Harry L. Haskell	Aug. 26, 1862
Do.....	Charles B. Hall	Sept. 29, 1862
Do.....	P. Henry Ray	May 7, 1861
Lieutenant-colonel, infantry	Benjamin C. Lockwood	Oct. 2, 1861
Do.....	George P. Borden	July 23, 1862
Do.....	James E. Macklin	Apr. 22, 1861
Do.....	Daniel H. Brush	May 22, 1864
Do.....	Charles L. Hodges	Aug. 20, 1861
Major, infantry	Frank Taylor	Oct. 24, 1860
Do.....	Palmer G. Wood	Oct. 28, 1864
Do.....	George H. Roach	Feb. 27, 1864
	Lorenzo W. Cooke	July 26, 1862

W. P. HALL, *Acting Adjutant-General.*

OFFICE OF THE ADJUTANT-GENERAL, December 16, 1903.

Secretary Root. Since the beginning of the war with Spain the President has appointed and the Senate has confirmed 120 generals. Of those, 25 were colonels at the beginning of the war with Spain.

Senator ALGER. Are you counting the commissions or the men? You know some have been appointed two or three times.

Secretary Root. I am counting the men.

Senator ALGER. The men?

Secretary Root. Yes. One hundred and twenty officers had been appointed and commissioned as generals; 25 of them were colonels at the beginning of the war with Spain; 34 were lieutenant-colonels, 33 were majors, 24 were captains, 1 was a first lieutenant, 3 were not in the service. The three who were not in the service were General Grant, General Funston, and General Wheeler. The one first lieutenant was J. Franklin Bell. Of the 24 who were captains, 20 were for retirement, and 21 were civil war officers who were still captains at the beginning of the war with Spain. The four captains at the beginning of the war with Spain who were made generals for service—continued service—and are now serving, are Gen. Frank D. Baldwin, Gen. Jesse M. Lee, Gen. Tasker H. Bliss, and Gen. Leonard Wood.

Senator TELLER. How many did you say were in the civil war?

Secretary Root. Of the captains, 21 were in the civil war.

Senator TELLER. How many of the whole number made brigadiers were in the civil war?

Secretary Root. I have not that here.

Senator TELLER. About how many?

Secretary Root. Well, probably nineteen-twentieths of them, or certainly nine-tenths.

Senator TELLER. They were made brigadiers to give them the benefit of the salary, were they not, and the honor which is what every soldier wants?

Secretary Root. A large part of them were.

Senator TELLER. I am not criticising that, Mr. Secretary.

Secretary Root. Of those 120, 32 were appointed for service, and they served, 11 of them, until their time of retirement, counting one, General Ludlow, who died, and 21 of them still remain in service. That is 32 out of the 120. You see, the number of older men who can be appointed—appointed for service—is very much greater than the number of younger men, because they keep running off.

Senator TELLER. Certainly.

Secretary Root. They keep a continual succession, and there are really only about half a dozen of the younger men who have been appointed and are giving continuous service. I do not think any injustice has been done to the older men. I do not think that we have made any greater proportion of younger men who can give continuous service than is necessary for the good administration of the Army.

It is absolutely necessary to have some proportion of our general officers men who stay long enough to have a continuous policy, and men who have the vigor and activity that pretty much all of us except Senator Pettus have rather passed beyond. There are some things that you have to call on general officers to do for which you want a man with the full vigor and initiative of the prime of life.

The lists referred to by Secretary Root are here inserted in the record, as follows:

List of officers now on the active list who, prior to the war with Spain, ever commanded a regiment or its equivalent in action.

Lieut. Gen. S. B. M. Young.
Maj. Gen. Arthur MacArthur.
Maj. Gen. J. F. Wade.

Maj. Gen. H. C. Corbin.
Brig. Gen. G. M. Randall.

List of officers on the active list who, prior to the war with Spain, ever commanded a regiment.

Lieut. Gen. S. B. M. Young.
Maj. Gen. A. R. Chaffee.
Maj. Gen. Arthur MacArthur.
Maj. Gen. J. C. Bates.
Maj. Gen. J. F. Wade.
Maj. Gen. H. C. Corbin.

Maj. Gen. S. S. Sumner.
Brig. Gen. Francis Moore.
Brig. Gen. G. M. Randall.
Brig. Gen. C. C. Carr.
Col. Jacob Kline, Twenty-first Infantry.

LIST No. 4 (a).—*General officers appointed and retired, or appointed with a view to immediate retirement, since April 21, 1898.*

Name.	Date of appointment.	Date of retirement.
1. Hamilton S. Hawkins.....	Sept. 28, 1898	Oct. 4, 1898
2. Jacob F. Kent.....	Oct. 4, 1898	Oct. 15, 1898
3. William S. Worth.....	Oct. 29, 1898	Nov. 9, 1898
4. William M. Wherry.....	Jan. 7, 1899	Jan. 18, 1899
5. John H. Patterson.....	Jan. 18, 1899	Feb. 6, 1899
6. William Sinclair.....	Feb. 8, 1899	Feb. 13, 1899
7. Marcus P. Miller.....	Feb. 15, 1899	Mar. 27, 1899
8. Edwin V. Sumner.....	Mar. 27, 1899	Mar. 30, 1899
9. Alexander C. M. Pennington.....	Oct. 16, 1899	Oct. 17, 1899
10. Royal T. Frank.....	Oct. 17, 1899	Oct. 18, 1899
11. Louis H. Carpenter.....	Oct. 18, 1899	Oct. 19, 1899
12. Samuel Ovenshine.....	Oct. 19, 1899	Oct. 20, 1899
13. Daniel W. Burke.....	Oct. 20, 1899	Oct. 21, 1899
14. Edgar R. Kellogg.....	Dec. 5, 1899	Dec. 16, 1899
15. Gilbert S. Carpenter.....	.....do.....	Dec. 26, 1899
16. Henry B. Freeman.....	Jan. 16, 1901	Jan. 17, 1901
17. Theodore Schwan.....	Feb. 2, 1901	Feb. 21, 1901
18. Aaron S. Daggett.....	Feb. 21, 1901	Mar. 2, 1901
19. James M. Bell.....	Sept. 17, 1901	Oct. 1, 1901
20. Francis L. Guenther.....	Feb. 13, 1902	Feb. 22, 1902
21. Isaac D. DeRussy.....	Apr. 1, 1902	Apr. 15, 1902
22. Andrew S. Burt.....	.....do.....	Do.
23. Mott Hooton.....	Apr. 15, 1902	Apr. 16, 1902
24. Michael V. Sheridan.....	.....do.....	Do.
25. Simon Snyder.....	Apr. 16, 1902	May 10, 1902
26. William Auman.....	.....do.....	Do.
27. Abram A. Harbach.....	May 16, 1902	May 28, 1902
28. William F. Spurgin.....	.....do.....	May 29, 1902
29. Samuel M. Whitside.....	May 29, 1902	June 9, 1902
30. Sumner H. Lincoln.....	.....do.....	Do.
31. Thomas Ward.....	July 22, 1902	July 22, 1902
32. Amos S. Kimball.....	Oct. 1, 1902	Oct. 2, 1902
33. Chambers McKibbin.....	Oct. 2, 1902	Oct. 3, 1902
34. William Quinton.....	Oct. 6, 1902	Oct. 9, 1902
35. John I. Rodgers.....	Oct. 14, 1902	Oct. 15, 1902
36. Charles C. Hood.....	Oct. 18, 1902	Nov. 25, 1902
37. Henry C. Hasbrouck.....	Dec. 1, 1902	Jan. 5, 1903
38. John A. Johnston.....	Jan. 6, 1903	Jan. 15, 1903
39. Edward M. Hayes.....	Jan. 15, 1903	Jan. 26, 1903
40. Charles L. Davis.....	Jan. 26, 1903	Feb. 10, 1903
41. Joseph P. Farley.....	Feb. 17, 1903	Feb. 18, 1903
42. Morris C. Foote.....	Feb. 18, 1903	Feb. 19, 1903
43. George W. Baird.....	Feb. 19, 1903	Feb. 20, 1903
44. Samuel M. Mansfield.....	Feb. 20, 1903	Feb. 21, 1903
45. Tully McCrea.....	Feb. 21, 1903	Feb. 22, 1903
46. Eli L. Huggins.....	Feb. 22, 1903	Feb. 23, 1903
47. Greenleaf A. Goodale.....	Feb. 23, 1903	Feb. 24, 1903
48. John V. Furey.....	Feb. 24, 1903	Feb. 25, 1903
49. Jared A. Smith.....	Apr. 13, 1903	Apr. 14, 1903
50. Jacob B. Rawles.....	Apr. 14, 1903	Apr. 15, 1903
51. Albert E. Woodson.....	Apr. 15, 1903	Apr. 16, 1903
52. Stephen W. Groesbeck.....	Apr. 16, 1903	Apr. 17, 1903
53. John R. Myrick.....	Apr. 17, 1903	Apr. 18, 1903
54. Louis H. Rucker.....	Apr. 18, 1903	Apr. 19, 1903
55. Theodore A. Baldwin.....	Apr. 19, 1903	Apr. 20, 1903
56. William P. Rogers.....	Apr. 20, 1903	Apr. 21, 1903
57. John H. Page.....	July 26, 1903	July 27, 1903
58. Charles A. Woodruff.....	July 27, 1903	July 28, 1903
59. William L. Haskin.....	July 28, 1903	July 29, 1903
60. Charles W. Miner.....	July 29, 1903	July 30, 1903
61. James M. J. Sanno.....	July 30, 1903	July 31, 1903
62. Charles F. Roje.....	July 31, 1903	Aug. 1, 1903
63. James W. Reilly.....	Aug. 1, 1903	Aug. 2, 1903
64. Edwin B. Atwood.....	Aug. 2, 1903	Aug. 3, 1903
65. Frank G. Smith.....	Aug. 3, 1903	Aug. 4, 1903
66. George B. Rodney.....	Aug. 4, 1903	Aug. 5, 1903
67. Almond B. Wells.....	Aug. 5, 1903	Aug. 6, 1903
68. Peter J. A. Cleary.....	Aug. 6, 1903	Aug. 7, 1903
69. John B. Babcock.....	Aug. 7, 1903	Aug. 8, 1903
70. Charles A. Coolidge.....	Aug. 8, 1903	Aug. 9, 1903
71. Cyrus S. Roberts.....	.....do.....	Do.
72. J. Milton Thompson.....	Aug. 9, 1903	Aug. 10, 1903
73. Calvin De Witt.....	.....do.....	Do.
74. Carle A. Woodruff.....	Aug. 10, 1903	Aug. 11, 1903
75. David H. Kinzie.....	.....do.....	Do.
76. John L. Tiernon.....	Aug. 11, 1903	Aug. 12, 1903
77. James Miller.....	.....do.....	Do.
78. David J. Craigie.....	Aug. 12, 1903	Aug. 13, 1903
79. Alpheus H. Bowman.....	.....do.....	Do.

a Resigned

LIST No. 4 (a).—*General officers appointed and retired, or appointed with a view to immediate retirement, since April 21, 1898—Continued.*

Name.	Date of appointment.	Date of retirement.
80. Edmund Rice	Aug. 13, 1903	Aug. 14, 1903
81. Charles G. Penney	do	Do,
82. Jesse C. Chance	Aug. 14, 1903	Aug. 15, 1903
83. Theodore F. Forbes	do	Do,
84. Daniel D. Wheeler	Aug. 15, 1903	Aug. 16, 1903
85. Leon A. Matile	do	Do,
86. Charles L. Cooper	Aug. 16, 1903	Aug. 17, 1903
87. John A. Kress	do	Do,
88. John Simpson	Aug. 17, 1903	Aug. 18, 1903

LIST No. 4 (b).—*General officers who were appointed with a view to service, and who served out their terms, since April 21, 1898.*

Name.	Date of appointment.	Date of retirement or death.
1. Guy V. Henry	Oct. 11, 1898	aOct. 27, 1899
2. Thomas M. Anderson	Mar. 31, 1899	Jan. 21, 1900
3. William Lindlow	Jan. 21, 1900	aAug. 30, 1901
4. Joseph Wheeler	June 16, 1900	Sept. 10, 1900
5. Loyd Wheaton	Feb. 2, 1901	July 15, 1902
6. George W. Davis	do	July 21, 1903
7. Robert H. Hall	Feb. 5, 1901	Nov. 15, 1901
8. Robert P. Hughes	do	Apr. 11, 1903
9. Jacob H. Smith	Mar. 30, 1901	July 16, 1902
10. William H. Bisbee	Oct. 2, 1901	Oct. 1, 1902
11. Charles Bird	Apr. 16, 1902	June 17, 1902

^aDied.

LIST No. 4 (c).—*General officers now in service who were appointed since April 21, 1898.*

Name.	Date of appointment.	Name.	Date of appointment.
1. Samuel B. M. Young	Jan. 2, 1900	12. Frank D. Baldwin	June 9, 1902
2. Arthur MacArthur	Do,	13. Theodore J. Wint	Do,
3. John C. Bates	Feb. 2, 1901	14. Jesse M. Lee	June 17, 1902
4. Adna R. Chaffee	Feb. 4, 1901	15. William H. Carter	July 15, 1902
5. Samuel S. Sumner	Do,	16. Tasker H. Bliss	July 21, 1902
6. Leonard Wood	Do,	17. Joseph P. Sanger	July 23, 1902
7. George M. Randall	Feb. 6, 1901	18. Francis Moore	Feb. 25, 1903
8. William A. Kobbe	Do,	19. Peter C. Hains	Apr. 21, 1903
9. Frederick D. Grant	Feb. 18, 1901	20. Camillo C. Carr	Aug. 17, 1903
10. J. Franklin Bell	Feb. 19, 1901	21. Thomas H. Barry	Aug. 18, 1903
11. Frederick Funston	Apr. 1, 1901		

LIST No. 5.—*General officers appointed since April 21, 1898, with rank held by them at the commencement of the Spanish-American war.*

Name.	Rank held at commencement of Spanish-American war.	Name.	Rank held at commencement of Spanish-American war.
1. Samuel B. M. Young.....	Colonel of cavalry.	59. Joseph P. Farley.....	Lieutenant-colonel, Ordnance Department.
2. Samuel S. Sumner.....	Do.	60. Theodore J. Wint.....	Major of cavalry.
3. Guy V. Henry.....	Do.	61. Francis Moore.....	Do.
4. Edwin V. Sumner.....	Do.	62. Camillo C. Carr.....	Do.
5. Louis H. Carpenter.....	Do.	63. James M. Bell.....	Do.
6. William Sinclair.....	Colonel of artillery.	64. Edward M. Hayes.....	Do.
7. Marcus P. Miller.....	Do.	65. Eli L. Huggins.....	Do.
8. Alexander C. M. Pennington.....	Do.	66. Elbert E. Woodson.....	Do.
9. Royal T. Frank.....	Do.	67. Louis H. Rucker.....	Do.
10. Erneis L. Guenther.....	Do.	68. Almond B. Wells.....	Do.
11. John I. Rodgers.....	Do.	69. William A. Kobbé.....	Major of artillery.
12. John C. Bates.....	Colonel of infantry.	70. John R. Myrick.....	Do.
13. Thomas M. Anderson.....	Do.	71. George B. Rodney.....	Do.
14. Robert H. Hall.....	Do.	72. Carle A. Woodruff.....	Do.
15. Hamilton S. Hawkins.....	Do.	73. David H. Kinzie.....	Do.
16. Jacob F. Kent.....	Do.	74. John L. Tiernon.....	Do.
17. Samuel Ovenshine.....	Do.	75. George W. Davis.....	Major of infantry.
18. Isaac D. De Russy.....	Do.	76. Jacob H. Smith.....	Do.
19. Andrew S. Burt.....	Do.	77. Mott Hooton.....	Do.
20. Simon Snyder.....	Do.	78. William F. Spurgin.....	Do.
21. John H. Page.....	Do.	79. Charles W. Miner.....	Do.
22. Michael V. Sheridan.....	Colonel, Adjutant-General's Department.	80. James M. J. Sanno.....	Do.
23. Thomas Ward.....	Do.	81. Charles F. Robe.....	Do.
24. Peter C. Hains.....	Colonel, Corps of Engineers.	82. William H. Carter.....	Major, Adjutant-General's Department.
25. Jared A. Smith.....	Do.	83. Thomas H. Barry.....	Do.
26. Adna R. Chaffee.....	Lieutenant-colonel of cavalry.	84. Joseph P. Sanger.....	Major, Judge-Advocate-General's Department.
27. Samuel M. Whitside.....	Do.	85. Stephen W. Groesbeck.....	Major, Quartermaster's Department.
28. Theodore A. Baldwin.....	Do.	86. Charles Bird.....	Do.
29. Henry C. Hasbrouck.....	Lieutenant-colonel of artillery.	87. Daniel D. Wheeler.....	Major, Medical Department.
30. Tully McCrea.....	Do.	88. Calvin DeWitt.....	Major, Pay Department.
31. Jacob B. Rawles.....	Do.	89. George W. Baird.....	Major, Corps of Engineers.
32. William L. Haskin.....	Do.	90. Samuel M. Mansfield.....	Major, Ordnance Department.
33. Frank G. Smith.....	Do.	91. James W. Reilly.....	Captain of cavalry.
34. George M. Randall.....	Lieutenant-colonel of infantry.	92. John A. Kress.....	Do.
35. Loyd Wheaton.....	Do.	93. John A. Johnston.....	Do.
36. William H. Bisbee.....	Do.	94. Charles L. Cooper.....	Do.
37. William S. Worth.....	Do.	95. Frank D. Baldwin.....	Do.
38. William M. Wherry.....	Do.	96. Jesse M. Lee.....	Do.
39. John H. Patterson.....	Do.	97. William Auman.....	Do.
40. Daniel W. Burke.....	Do.	98. Summer H. Lineolin.....	Do.
41. Edgar R. Kellogg.....	Do.	99. William Quinton.....	Do.
42. Gilbert S. Carpenter.....	Do.	100. Charles L. Davis.....	Do.
43. Henry B. Freeman.....	Do.	101. Morris C. Foote.....	Do.
44. Aaron S. Daggett.....	Do.	102. Greenleaf A. Goodale.....	Do.
45. Abram A. Harbach.....	Do.	103. William P. Rogers.....	Do.
46. Chambers McKibbin.....	Do.	104. Charles A. Coolidge.....	Do.
47. Charles C. Hood.....	Do.	105. Cyrus S. Roberts.....	Do.
48. Arthur MacArthur.....	Lieutenant-colonel, Adjutant-General's Department.	106. J. Milton Thompson.....	Do.
49. Theodore Schwan.....	Do.	107. James Miller.....	Do.
50. John B. Babcock.....	Lieutenant-colonel, Inspector-General's Department.	108. David J. Craigie.....	Do.
51. Robert P. Hughes.....	Do.	109. Alpheus H. Bowman.....	Do.
52. Amos S. Kimball.....	Lieutenant-colonel, Quartermaster's Department.	110. Edmund Rice.....	Do.
53. John V. Furey.....	Do.	111. Charles G. Penney.....	Do.
54. Edwin B. Atwood.....	Do.	112. Jesse C. Chance.....	Do.
55. John Simpson.....	Do.	113. Theodore F. Forbes.....	Do.
56. Charles A. Woodruff.....	Lieutenant-colonel, Subsistence Department.	114. Leon A. Mattie.....	Do.
57. Peter J. A. Cleary.....	Lieutenant-colonel, Medical Department.	115. Tasker H. Bliss.....	Captain, Subsistence Department.
58. William Ludlow.....	Lieutenant-colonel, Corps of Engineers.	116. Leonard Wood.....	Captain, Medical Department.
		117. J. Franklin Bell.....	First lieutenant of cavalry.
		118. Frederick D. Grant.....	Not in service.
		119. Frederick Funston.....	Do.
		120. Joseph Wheeler.....	Do.

I want to say this, that there was a remark made here by General Wilson in his testimony which was quite gratuitous, and certainly was not speaking of things within his knowledge, and that was regarding the way in which the appointments of officers were made; that the members of the Cabinet sat down at the table and one man proposed one man and another one proposed another man, and so on. I have never known such a thing to be done. There has never been a promotion made during my knowledge, and I am quite sure that Secretary Alger can say the same for himself, except on the military record of the officer.

The practice is, invariably, when a vacancy is to be filled, to get together the full records of all the available officers, of every one who is suggested in any reasonable way by any military authority for consideration, and to take them all to the President and to sit down and go over the record and discuss what each man has done and what his superior officers have said about him, and there is not one man on this list who has been appointed for service who was not appointed on the recommendation of his superior officers: not one.

Senator FORAKER. If you know, and I understand that you have conferred with him about it, does the President take into consideration in this nomination of General Wood anything else than his merit as an officer, measured by his record and by his general qualifications and attainments?

Secretary ROOT. I do not think he did. I do not think he did. Of course he is a friend of General Wood's, but—

Senator FORAKER. General Wood is now the ranking and senior brigadier-general after General Sumner, with whom his name came in.

Secretary ROOT. Yes; he is now in the same relative rank which President McKinley put him on this paper that I produced here. President Roosevelt would be called upon to put him out of that rank and to dissent from the judgment of President McKinley if he had failed to nominate him.

Senator FORAKER. Can you tell us whether or not when President McKinley made him a brigadier-general and made him the military governor of Cuba, he had in view anything else than his qualifications and the good of the service?

Secretary Root. I do not think he had. He was made governor-general of Cuba on my recommendation. President McKinley did not suggest it. There was a singular situation in Cuba. General Brooke was in supreme command there, and he had four department commanders, Fitzhugh Lee in Pinar del Rio, General Ludlow in Habana, Gen. James H. Wilson in Matanzas, and General Wood in Santiago. Gen. Fitzhugh Lee's department was Pinar del Rio and the province of Habana.

The CHAIRMAN. They had been consolidated then?

Secretary Root. There were four departments. The city of Habana General Ludlow had. General Wilson had Matanzas and Santa Clara, and General Wood had Santiago and Puerto Principe. I have a very high opinion of General Brooke. I think he is a fine soldier and a fine and noble gentleman. I have the highest regard for him. But I felt, after studying very thoroughly the situation in Cuba, availing myself of every possible means to get information about it, I felt bound to say to the President that I did not think that General Brooke by training and the character of his mind and long habit of his life was adapted

to perform the work which was to be done there, and I thought that we would have to relieve him, and the natural thing would be to put some one of the department commanders in his place. He said that there was one whom he could not feel safe in putting in command, and that was General Wilson. And he said that General Wilson had made a speech during a recent visit of President McKinley to Atlanta, I think.

Senator FORAKER. It was Macon.

The CHAIRMAN. Yes; Macon.

Secretary ROOT. Macon?

Senator ALGER. Yes; I stood beside him when he made that speech.

Secretary ROOT. He said that that speech had satisfied him that General Wilson's judgment was bad and that he was not a safe man to put in such a position, and I then sent for General Ludlow and sent for General Wood and I went over the subject with General Ludlow first—he got here first—and I sent him away, telling him that we were going to put a new man in and that the question would be between him and General Wood, and it would be decided before very long.

Then General Wood came and I talked with him. I had never seen the man in my life before, except I think I met him at a public dinner once, and on everything that I could learn from what he had been doing at Santiago he was the best man that we could put our hands on to do the business in Cuba; and I can tell you that it was a pretty serious business.

There were not a dozen men in Cuba who believed that the United States was going to keep faith with them, not a dozen men in Cuba who believed that we were going to carry out your resolution, Senator, and we were on the verge daily of the same sort of thing that happened to us in the Philippines, of having those people, who had fought for their independence for years and who believed that we were going to hold them in subjection in the same way that Spain had held them, take to the woods and begin another insurrection against us. And I can tell you that I had an uneasy life for a long time with the apprehension that the morning paper when I looked at it any morning might contain the news of American troops firing on Cubans, and there was not anything but the necessity of getting the best man that we could to do that most serious and difficult work, and I went to President McKinley and told him that I was satisfied that General Wood was the man, and he said, "All right; go ahead."

Now, I want to say one thing more. I want to say that from December, 1899, until General Wood came out of Cuba in May, 1902, I kept track of what was done, and studied the subject as carefully as any business man ever studied his own business, or any lawyer ever studied a case which he was to try. I went to Cuba three times and went all around the island and visited the camps and the army posts and the prisons and hospitals and asylums and the schools and public works; I talked with everybody I could get hold of and got all the information I could get by conversation with soldiers and civilians and Americans and Cubans. I read the reports and I directed the course of the Government in Cuba, and I knew what was going on; and I feel under a debt of the greatest gratitude to General Wood for what I think is one of the most conspicuous and meritorious pieces of work ever done by an American.

THIS PROMOTION DOES NOT "JUMP" ANY OTHER OFFICER.

There seems to be an opinion widely entertained that General Wood is now by this appointment being "jumped" over other officers senior to him in rank and of longer and more important service. Such is not the case. General Sumner and General Wood were, when this nomination was made, the ranking brigadier-generals of the Army. Both were at the same time nominated, to fill the two vacancies then occurring, to be major-generals. General Sumner has been confirmed. Only one vacancy in the rank of major-general remains, and that is the one to which General Wood has been appointed.

It would seem to be enough, in view of his good record, to justify the President in giving him this appointment, that he is now the ranking brigadier-general, and naturally the first man to be considered of the whole Army in connection with such an appointment. It will not be contended—or at least it has not been contended by anyone—that in appointing a major-general to fill the vacancy now existing the President should select for that appointment any officer of the Army below the rank of brigadier-general. That is to say, no colonel or lieutenant-colonel or other officer of less rank has been suggested as worthy to be advanced over all the 15 brigadier-generals of the Army to the rank of major-general.

If, therefore, the question of determining who shall have this appointment must be confined, as it is, to the 15 brigadier-generals, a mere glance at their respective records will show that, while all are apparently capable and efficient officers, not one of them has a better claim, by reason of his past record and experience as a commander, than has General Wood; and, in the opinion of the committee, no one has, in view of his present rank, equal claim to him on the ground of merit, measured by the considerations suggested.

An examination of the following table, made up from an inspection of the records of the 15 brigadier-generals of the Army now in service on the active list, will disclose not only that General Wood is fairly entitled to this nomination, but that it would be a discrimination against him to give it to any other of his colleagues of that rank.

Name, rank, date of commission, and highest brevet rank.	Service in the Army.		Highest command.
	In volunteers, with highest brevet rank beyond lineal commission.	In permanent establishment.	
BRIGADIER GENERALS.			
Wood, Leonard..... 4 feb. 1901 Graduate Harvard, 1884.	col. 1 U. S. cav .. 8 may, 98 brig. gen..... 8 july, accepted 18 july, maj. gen..... 7 dec. accepted 17 dec. hon. dis..... 13 apr. 99 brig. gen..... 13 apr. accepted 14 apr. maj. gen..... 5 dec. accepted 13 dec. hon. dis..... 30 june, 1901	asst. surg 5 jan. 86 before war, ind. scouts. accepted 11 aug. capt. asst. surg. 5 jan. 91 begin'g war, regt. com. brig. gen..... 4 feb. 1901 during and since war, accepted 2 mar. brigade mil. dept. and division 12,000 men. dist. service, Geronimo camp; Cuba-June 98- May 1902.	

Name, rank, date of commission, and highest brevet rank.	Service in the Army.		Highest command.
	In volunteers, with highest brevet rank beyond lineal commission.	In permanent establishment.	
BRIGADIER GENERALS —continued.			
Randall, George M. 6 feb. 1901	pvt. co. A, 4 Pa. inf 20 apr. 61 discharged 25 july,	2 lt. 4 inf 24 oct. 61 accepted 6 nov. 1 lt. 6 nov. 62 capt. 23 sept. 65 unassigned 23 mar. 69 ass'd to 23 inf 1 jan. 71	before war, regt. in absence of colonel.
Bvt. Col., feb. 27, 90.	maj. 14 N. Y. art. 16 aug. 64 bvt. col. 26 mar. 65 lt. col. 14 N. Y. art 1 june, 65 hon. must. out. 26 aug. 65 brig. gen. 4 may, 98 accepted 27 june. hon. dis. 12 apr. 99 brig. gen. 20 jan. 1900 accepted 6 feb. vacated 5 mar. 1901	1 lt. 8 inf 15 jan. 91 hon. must. out. 26 aug. 65 brig. gen. 8 aug. 98 tr's to 8 inf 16 sept. brig. gen. 6 feb. 1901 accepted 5 mar.	during war, brig. troops in camp for short time, since war, mil. dept. about 3,000 men. dist. service, scouting after Indians as capt. of inf.
Kobbé, W.A. 6 feb. 1901	pvt. co. K, 7 N.Y. s.m. 5 june, 62 discharged 5 sept.	2 lt. 19 inf 17 mar. 66 accepted 5 may trs. to 37 inf. 21 sept. 1 lt. 2 feb. 67	before war, co. art. on Atlantic sea coast.
Bvt. Maj., Mar. 2, 67.	pvt. co. G, 178 N. Y. inf. 29 may, 63 to 18 oct.	trs. to 3 inf. 11 aug. 69 eapt. 6 apr. 85 tr's to 3 art. 5 feb. 72	during war, brigade desultory actions in Philippines; about 4,000 men.
Graduate of the Artillery School, 1873.	1 lt. 178 N. Y. inf. 18 oct. bvt. lt. col. 13 mar. 65 capt. 178 N. Y. inf. 2 aug. hon. must. out. 1 mar. 66 col. 35 U. S. inf. 5 july, 99 accepted 13 july. brig. gen. 5 dec. accepted 16 dec. vacated 28 feb. 1901	capt. 8 mar. 98 brig. gen. 6 feb. 1901 accepted 28 feb.	dist. services, about two years as subordinate commander in Philippines.
Grant, Frederick D. 18 feb. 1901	brig. gen. 27 may, 98 accepted 2 june. hon. dis. 15 apr. 99 brig. gen. 15 apr. accepted 15 apr. vacated 28 feb. 1901	cadet M A 1 july, 66 2 lt. 4 cav. 12 june, 71 1 lt. 28 june, 76 resigned 1 oct. 81 brig. gen. 18 feb. 1901 accepted 28 feb.	before war, none. beginning of war, brig. gen. in command of brigade about 3,000 men.
Bell, J. Franklin, 19 feb. 1901	maj. eng. off. 17 may, 98 accepted 7 june. hon. dis. 17 apr. 99 maj. a. a. g. 17 apr. accepted 20 apr. vacated 12 july, lt. col. 32 U. S. inf. 5 july, [declined.] col. 36 U. S. inf. 5 july, accepted 12 july. brig. gen. 5 dec. accepted 24 dec. vacated 1 mar. 1901	cadet M. A. 1 sept. 74 add. 2 lt. 9 cav. 14 june, 78 2 lt. 28 june, 78 tr. to 7 cav. 9 aug. 1 lt. 29 dec. 90 capt. 2 mar. 99 brig. gen. 19 feb. 1901 accepted 1 mar.	before war, none. beginning of war, none. during war, regiment and brigade, about 3,000 men. distinguished service Pacified Samar.
Funston, Frederick, 1 apr. 1901	col. 20 Kans. inf. 13 may, 98 hon. dis. 4 may, 99 brig. gen. 1 may, accepted 5 may, vacated 1 apr. 1901	brig. gen. 1 apr. 1901 acceded 1 apr.	before war, none. beginning of war, regiment of infantry. during war, brigade about 3,000 troops. distinguished services, captured Aguilando.
Baldwin, Frank D.	2 lt. Mich. horse- guards 19 sept. 61 hon. must. out. 22 nov. 1 lt. 19 Mich. inf. 12 aug. 62 capt. 23 jan. 64 hon. must. out. 10 june, 65 lt. col. ins. gen. 9 may, 98 accepted 20 june, hon. dis. 12 may, 99	2 lt. 19 inf. 23 Feb. 66 1 lt. 23 Feb. accepted 10 may, trs. to 37 inf. 21 Sept. 1 lt. 27 inf. 25 july, 66 capt. 19 may, 69 hon. must. out. 20 june, 65 capt. 20 may, 79 maj. 26 apr. 98 trs. to 3 inf. 3 nov. 99 lt. col. 4 inf. 18 dec. trs. to 1 inf. 23 july, 1901 col. 27 inf. 26 july, brig. gen. 9 june, 1902 accepted 28 june, pvt. gen. mtd. ser 20 feb. 65	before war, capt. inf. beginning war, staff officer, lt. col. during war, col.; later brig. gen. highest command mil. dept. about 4,000 men. dist. services, took Morro fort.
Wint, Theo. J., 9 june, 1902.	pvt., corpl., and sgt. co. F, 6 Pa. cav. 12 oct. 61 to 1 july, 64 1 lt. 6 Pa. cav. 1 july, hon. must 30 sept.	to 1 dec. 2 lt. 4 cav. 24 nov. accepted 1 dec. 1 lt. 9 may, 66 capt. 21 apr. 72 maj. 10 cav. 6 may, 92 lt. col. 6 cav. 8 apr. 99 col. 23 feb. 1901 brig. gen. 9 june, 1902 accepted 28 june.	beginning war, squadron cav. during war, regt. cav. later brig. gen. comdg. brigade, about 4,000 men.

Name, rank, date of commission, and highest brevet rank.	Service in the Army.		Highest command.
	In volunteers, with highest brevet rank beyond lineal commission.	In permanent establishment.	
BRIGADIER GENERALS —continued.			
Lee, Jesse M., 17 June, pvt. co. B, and 1902. com. sgt. 59 Ind. inf. 13 nov. 61 accepted 25 jan. 61 to 13 oct. 62 trs. to 25 inf. 20 apr. 69 2 lt. 59 Ind. inf. 13 oct. 63 massigned 24 apr. 1 lt. 14 feb. 63 assgd. to 9 inf. 1 jan. 71 capt. 11 aug. 63 capt. 1 may. 79 hon. must. out. 17 july. 65 maj. 26 apr. 98 capt. 38 U. S. inf. 23 ang. 65 trs. to 15 inf. 7 aug. 1900 hon. must. out. 25 jan. 67 lt. col. 6 inf. 9 oct. maj. ins. gen. 12 may. 98 col. 30 inf. 8 oct. 1901 [declined] brig. gen. 17 june, 1902 col. 10 U. S. inf. 31 may. 98 accepted 28 june, hon. dis. 8 july,	2 lt. 39 inf. 28 july, 66 1 lt. 7 jan. 61 2 lt. 59 Ind. inf. 13 oct. 62 trs. to 25 inf. 20 apr. 69 1 lt. 14 feb. 63 assgd. to 9 inf. 1 jan. 71 capt. 11 aug. 63 capt. 1 may. 79 hon. must. out. 17 july. 65 maj. 26 apr. 98 capt. 38 U. S. inf. 23 ang. 65 trs. to 15 inf. 7 aug. 1900 hon. must. out. 25 jan. 67 lt. col. 6 inf. 9 oct. maj. ins. gen. 12 may. 98 col. 30 inf. 8 oct. 1901 [declined] brig. gen. 17 june, 1902 col. 10 U. S. inf. 31 may. 98 accepted 28 june, hon. dis. 8 july,	company of inf. beginning war, none; staff officer, major; later, col. vols. comdg. regt.; later brig gen. comdg. brigade about 3,000 men. distinguished services; pacified Li's district in Philippines.	
Carter, William H., 15 July, 1902.	cadet, M. A. 1 july, 68 before the war, troop of 2 lt. 8 inf. 13 june, 73 cavalry. to 6 cav. 28 nov. 74 beginning of war, none; 1 lt. 14 apr. 79 staff officer in adjt. gen. capt. 20 nov. 89 cral's office. maj. a. a. g. 29 jan. 97 during war, none; staff accepted 6 feb. officer; later brigadier lt. col. a. a. g. 18 may, 98 general; no command. col. a. a. g. 15 apr. 1902 dist. services, reorganization brig. gen. 15 july, 1902 accepted 15 july. cadet M. A. 1 sept. 71	before the war, none.	
Bliss, Tasker H., 21 July, 1902.	before war, none.		
Honorary graduate of the Artillery School, 1884.	2 lt. 1 art. 16 june, 75 1 lt. 1 july, 80 capt. com. sub. 20 dec. 92 accepted 23 dec. maj. com. sub. 30 apr. 98 brig. gen. 21 july, 1902 accepted 21 july,	beginning of war, none; staff officer. during war, none; staff officer; director of customs, Cuba; later brig. gen., no command. Distinguished services as director of customs, Cuba, throughout administration American Government.	
Sanger, Jos. P., 23 July, 02	2 lt. 1 art. 5 aug. 61 accepted 26 aug. 61 1 lt. 26 oct. capt. 7 eav. [decl'd]	before the war, battery of artillery.	
Bvt. Maj. mar. 13, 65	28 july, 66 capt. 1 art. 7 feb. 75 maj. ins. gen. 12 feb. 89 accepted 2 mar. lt. col. ins. gen. 7 july, 98 col. ins. gen. 2 feb. 1901 brig. gen. 23 july, 1902 accepted 23 july. 2 lt. 9 cav. 28 july, 66 before the war, squadron cav.	beginning of war, brigade in camp at Chickamauga. during war, brig. gen. vols. brigade, 7,000 men; dist. services as subordinate comdr. Philippines.	
Honor graduate of the Artillery School, 1869.	29 dec. 63 1 lt. 12 july, 67 beginning of war, none; capt. 65 U. S. c. inf 29 dec. 63 capt. 21 aug. 72 lt. col. 25 U. S. c. inf. 18 feb. 65 lt. col. 10 cav. 6 may, 99 bvt. lt. col. 13 mar. 65 lt. col. 11 cav. 2 feb. 1901 hon. mnst. out. 21 june, 65 brig. gen. maj. 65 U. S. c. inf. 21 june, 65 accepted hon. mnst. out. 8 jan. 67	during war, brig. gen. regt. cavalry; later brig. gen. dist. services, as subordinate commander in Philippines.	
Moore, Francis	pvt. and sgt. co. M, 1 Colo. cav. 10 sept. 61 accepted 21 nov. to 29 dec. 63 1 lt. 12 july, 67 beginning of war, none; capt. 65 U. S. c. inf 29 dec. 63 capt. 21 aug. 72 lt. col. 25 U. S. c. inf. 18 feb. 65 lt. col. 10 cav. 6 may, 99 bvt. lt. col. 13 mar. 65 lt. col. 11 cav. 2 feb. 1901 hon. mnst. out. 21 june, 65 brig. gen. maj. 65 U. S. c. inf. 21 june, 65 accepted hon. mnst. out. 8 jan. 67	beginning of war, brig. gen., comdg. brigade in Porto Rico; later brig. gen.	
Hains, Peter C.	cadet M. A. 1 july, 57 before the war, none. 2 lt. 2 art. 21 june, 61 beginning of war, brig. 1 lt. 21 june, 61 trs. to top. eng. 21 july, 62 trs. to eng. 3 mar. 63 capt. 18 july, 65 maj. 22 sept. 70 lt. col. 16 sept. 86 col. 13 aug. 95	dist. services, as subordinate comdr. in Porto Rico.	
Bvt. Lt. Col., Mar. 18, 65.	brig. gen. accepted		

Name, rank, date of commission, and highest brevet rank.	Service in the Army.		Highest command.
	In volunteers, with highest brevet rank beyond lineal commission.	In permanent establishment.	
BRIGADIER-GENERAL —continued.			
Carr, Camillo C. C..... Bvt. Maj., Feb. 27, 90.		pvt., corp., sgt., and 1 sgt. eo. F, and sgt. maj. 1 cav. 15 aug. 62 to 11 nov. 63 2 lt. 1 cav 31 oct. accepted 12 nov. 1 lt 28 june, 64 capt 8 apr. 69 maj. 8 cav 7 feb. 91 lt. col. 5 cav 16 oct. 98 col. 4 cav 23 jan. 1900 brig. gen. accepted	before the war, squadron cavalry. beginning of war, squadron cavalry. during war, regt. cavalry. later brig. gen.; distinguished services.
Barry, Thomas H..... lt. col. a. a. g. 22 june, 98 accepted 25 june, vacated 10 jan. 1900 brig. gen. 18 june, accepted 19 june, hon. dis. 30 june, 1901	cadet M. A 1 july, 73 2 lt. 7 cav 15 june, 77 trs. to 1 inf. 31 aug. 80 company of inf. beginning of war. 1 lt 11 mar. 82 capt 25 feb. 91 none; staff officer during maj. a. a. g. 29 jan. 97 accepted 6 feb. lt. col. a. a. g. 10 jan. 1900 col. a. a. g. 15 july, 1902 br. gen. accepted	highest command before the war. the war.	

For the reasons stated; the undersigned joined with the committee recommending confirmation.

Respectfully submitted.

J. B. FORAKER.



LB JL '07





LIBRARY OF CONGRESS



0 011 522 342 2

